CIVICS

FOR CLASSES IX & X

[*English Medium*]

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Chapter I

Introduction

Man is a social animal. He is accustomed to living with his fellows from the very beginning. Man is, therefore, urged by instinct to form a society. We, therefore, live with each other in this social organization. This gives rise to a number of social problems. To solve these problems, we have to frame certain principles and rules and regulations. Consequently, it becomes our duty to abide by these rules and to respect the feelings and sentiments of our fellows. Therefore, the branch or discipline of human knowledge, which discusses and helps us comprehend the principles which regulate organised political life of individuals in an organized society or state, is called Civics.

Definition of Civics :

Civics is that branch of human knowledge, which studies the affairs of the city and the conduct of its citizens, their activities and their rights and duties. Social scientists have defined Civics in a variety of ways, some of which are given below:

F.J. Gould defines Civics as 'the study of institutions, habits, activities and spirit by means of which a man or woman may fulfil the duties and receive the benefits of membership in a political community'.

According to E.M. White 'Civics is that useful branch of human knowledge which deals with everything relating to citizens' past, present and future, local, national and human.'

Some social scientists hold that Civics is the study of social life including its social, moral, political and religious institutions, in addition to being a study of municipal, town and city institutions and provincial and central governments.

From the definitions given above, we can conclude that Civics is a branch of social sciences which studies the character, habits, customs, activities and feelings of a citizen in a politically organized society ; clearly establishes relations between a citizen and the state ; analyses social, moral, political and religious institutions, in relation to human life ; delimits the working of municipal, provincial and central governments, and discusses the problems of social life past, present and future, local or international in character. It helps a citizen to understand his rights and properly discharge his duties and responsibilities.

Importance of Civics :

The scope of social life in modern times has become vast and complex. An individual, as member of a society, has to establish a variety of relationships. He has to be very careful in meeting the demands of these relationships. The study of Civics is, therefore, very important. There are many good reasons for a student to study Civics, some of which are given below :

1. *Political Training:* A citizen has to shoulder many responsibilities in a modern democratic set up. Civics helps him in this regard. It makes him aware of his rights and conscious of his duties and produces in him qualities of a good citizen. It produces in him an awareness of past and present, in the light of which he can plan a better future for himself. It enables a citizen to understand the system of government prevalent in his country, so that he can take active interest in understanding and solving political problems. In short, Civics

imparts political training to a citizen, which is so very essential for the proper understanding and development of modern democratic system.

2. *Establishment of a Good Society :* Individual and society are inseparable from each other. The study of Civics clearly outlines relationship between individuals and social institutions. No society can be good if its members are not good. The quality of society depends on the quality of individuals. Civics produces among citizens social consciousness which brings into existence a good and prosperous society.

3. *Success of Democratic System :* Democracy is regarded as the standard political system in the modern times. And to work a democratic system successfully, there is the need of educated and responsible citizens, who are aware of their rights and conscious of their duties. The study of Civics produces a sense of responsibility among the citizens which helps in the working of a democratic system.

4. *Moral Training :* The development of a society depends on a character and conduct of its members. Knowledge of Civics helps in producing individuals of good character and behaviour who can perform their duties honestly and efficiently. It helps them to remove evils like selfishness, greed, jealousy and prejudice and enables them to regard national interests more important than personal interests.

5. *Solution of Social Problems :* The study of Civics helps in the solution of social problems. It requires individuals to keep environments clean and act on the principles laid down by hygiene. It teaches them good neighbourliness and propriety. It inculcates good moral qualities in place of social prejudices, jealousies etc.

6. *Awareness of National Problems :* There are hundreds of problems, e.g. health and sanitation, poverty,

ignorance, unemployment, disease, etc., which no government, how great resources it may have, can solve without the co-operation of the people. These are the problems which have a direct bearing on our lives and prove obstacles in the way of national development. It is, therefore, necessary to find suitable solutions to these problems. Study of Civics enables the citizens to understand the significance of these problems and to find their solutions.

7. *International Co-operation:* Quick means of transport and communication have brought peoples of the world very close to each other. They want to live with each other in close co-operation and in peace. Therefore, the interests of a citizen of today are not only related to his own country, but also to the whole of mankind. Knowledge of Civics produces in the citizen a breadth of vision which is above and beyond narrow nationalism and invites him to think in terms of being a citizen of the world.

Relationship of Civics with other Social Sciences :

There are two main kinds of sciences; natural sciences and social sciences. Natural sciences deal with matter and its properties; while social sciences deal with man as member of a society. These sciences discuss various aspects of social life. As Civics is concerned with social life and its betterment, it is also a social science. It is closely related to other social sciences like Sociology, Economics, Political Science, History, etc.

Civics and Sociology: Sociology is the science of society. It deals with the origin, growth and development of groups and associations, their forms and functions, customs, laws, beliefs, ways of living and modes of thinking and other subjects of this nature. That is why Sociology is called the mother of all social sciences.

Civics and Sociology are similar to each other in that both of them discuss social conditions of individuals, institutions established and laws framed by them. While Sociology studies the origin and development of different groups and associations, the object of Civics is the study of general well-being of the individual. Civics has learnt from Sociology the origin of political institutions, their growth and development, while Sociology is indebted to Civics for knowledge of the state. That establishes the close relationship between the two.

Sociology studies all aspects of social life, but only in its general principles. Civics, on the other hand, studies only one aspect of social life—the civic aspect but in a somewhat detailed form. Civics is, therefore, narrower in scope than Sociology, and forms a part of Sociology, in so far as it deals with the social aspect of man's life. Sociology describes good and bad customs and manners of man, but has nothing to do with their goodness and badness. On the other hand, Civics shows good and bad aspects of these customs and teaches us how to eschew the bad and embrace the good only.

Civics and Political Science: Of all the social sciences, Political Science is most closely related to Civics. Both these sciences deal with man living in a politically organized community. Both are interested in the rights and duties of citizens and endeavour to make their life better. Civics deals with the individual in society. Political Science is mainly concerned with the state. As the individual is a member of some state, Civics is concerned with the state also. It does not, however, mean that both the disciplines are branches of the same science.

The difference between the two sciences is that the scope of Political Science is wider than that of Civics. Civics is mainly concerned with the problem of citizenship. On the other hand, Political Science deals with national and international problems. But in its limited field, Civics studies more subjects than does Political Science. Political Science is mainly concerned with the organization of the state and matters connected with its government, while Civics studies all aspects of the social life of individuals, e.g. education, recreation, health and sanitation, eradication of poverty, crimes, etc., etc.

Civics and History: History may be defined as a record of past events and movements, their causes and effects. Its study reveals to us the conditions of life and rights enjoyed and duties performed by the people of a country. It is not only a record of the victories and achievements of kings and princes, but is also a survey of conditions and developments in all fields of human activity, political, religious, social. History gives us the knowledge how men lived their lives in given conditions. It also includes a study of states, their growth and organization and their relations with one another.

The present form of our society is centuries old. History tells us the various stages of development of our society. Thus, History is necessary for the study of Civics, as it gives us knowledge of the past on which we are going to build the present and shape the future.

It cannot, however, be denied that the scope of History is wider than that of Civics in one respect. History throws light on all aspects of social and collective life of a people in the past, while Civics is concerned only with the activities of individuals as citizens.

History presents facts, Civics formulates general principles, in the light of which better future is shaped.

Civics and Economics: Economics is described as the science of wealth. It deals with man's individual and social activity in production, distribution and consumption of wealth. On every step in the present times, a citizen comes across facts and problems of an economic nature. Social life is affected if prices of commodities go up or decline. Therefore, no person can remain indifferent to economic developments around him. Many social problems, including poverty, unemployment, crimes, etc., which destroy peaceful life of a society, are a direct result of economic inequalities. Civics enquires into the causes of these problems and requires us to find their solutions.

Civic principles and ideals themselves are influenced and shaped by economic changes. These principles are actually determined by prevailing economic conditions. If we analyse political and social problems facing us these days, we would come to the conclusion that they mostly stem from economic imbalance and inequities. As all economic activity is regulated by laws framed by the government, it is naturally influenced by political and Civic institutions and laws of the country.

Civics and Economics both aim at the welfare and betterment of the individual and the state—the former is concerned with the social and Civic aspect of life, and the latter with the economic one.

EXERCISES

1. **Define the term 'Civics'. Also discuss the importance of Civics.**
2. **Discuss the relationship which Civics has with the following;**
   (*a*) Sociology.
   (*b*) Political Science.
   (*c*) History.
   (*d*) Economics

Chapter II

Citizen and Citizenship

Literally, the word *citizen* means resident of a city. But in Civics, *a citizen is a member of a politically organized community, who enjoys the right to participate in political and economic activities of the state, irrespective of his residence in a city, or a town or a village.* Actually, the term citizen has been derived from Greek city-states. Ancient Greek State consisted of a city and its suburbs, which we today call city—state. The individuals who participated in the political, administrative, judicial and economic activities of the state were called 'citizens' of the state.

Today, states are of a bigger size than the old Greek cities. Therefore, the concept of citizenship has also become wider. Now, a citizen is a member of a politically organized community. He can take part in political, economic, social and administrative activities of the state. He enjoys political and social rights, in exchange for which he shoulders some responsibilities and owes some duties. The inhabitants of a country include not only citizens, but also some other categories of individuals, which are listed below.

Citizen and National. Citizens are those individuals who enjoy full political and social rights. *Nationals are those individuals who are members of the state, but who do not enjoy full political rights.* Generally, they do not have the right to vote or contest elections. In some cases, however, they have the right to vote after some years of stay in that country but cannot contest election.

Alien : Some individuals, who are not members of the state, take up residence in a state temporarily with the permission of that state for a specific purpose. They are called aliens. Although an alien resides in that state yet he is not a citizen of the state, he resides in. He continues to be a citizen of the state, of which he is a member. That is why he is not required to shoulder the responsibilities and duties of a citizen. Similarly, he does not enjoy all the rights and concessions available to a citizen. Aliens enjoy only social rights. Any one or even all of these rights may, however, be withdrawn by the state.

Aliens have to obey laws of the land in which they temporarily reside. They have to pay taxes and other dues levied on them by the state in which they live. In exchange for this, they enjoy protection of the state in which they reside but only within that state.

Foreigners living in a state are usually divided into three classes : *aliens*, *domiciled aliens*, and *members of diplomatic corps*. When a foreigner comes to a country for a short and temporary stay, he is called an alien. If a person resides in another state for a long period of time for purposes of employment or other business, he is known as a domiciled alien. Third category is that of members of diplomatic corps. *Aliens and domiciled aliens are governed by the laws of the land in which they reside, whereas members of diplomatic corps are governed by the laws of the country, they represent.* Moreover, they enjoy special concessions, which are not available to foreigners of the first two categories.

Citizenship :

A citizen is a member of the state and enjoys all social, political and economic rights in exchange for which he is required to shoulder some responsibilities and perform certain duties. A citizen is an active member of the state. He is conscious that it is his state and that he is responsible for its welfare and betterment.

Pakistani Citizenship :

The Constituent Assembly of Pakistan adopted a bill regarding citizenship of Pakistan, in October 1950, which is given below :

1. At the commencement of this Act, every person shall be deemed to be a citizen of Pakistan.

   (*a*) Who or any of whose parents or grand parents was born in the territory now included in Pakistan and who after the fourteenth day of August, 1947, has not been permanently resident in any country outside Pakistan ; or

   (b) Who or any of whose parents or grand-parents was born in the territories included in India on the thirty first day of March, 1937, and has not had his domicile within the meaning of Part II of the Succession Act, as in force at the commencement of this Act, in Pakistan or in the territories now included in Pakistan ; or

   (*c*) Who is a person naturalised as a British subject in Pakistan, and who, if before the date of commencement of this Act, he has acquired the citizenship of any foreign state, has before that date renounced the same by depositing a declaration in writing to that effect with an authority appointed or empowered to receive it ; or

   (*d*) Who before the commencement of this Act migrated to the territories now included in Pakistan from any territory in the Indo-Pakistan Sub-continent outside these territories with the intention of residing permanently in these territories.

2. Pakistan Legislature has the power to frame laws further to grant or withdraw citizenship and related matters.

Qualities of Good Citizenship :

For the purpose of running the administration and development and strengthening of the state, it is essential that its members should possess good qualities. Awareness of these qualities is, therefore, necessary for every citizen. Some of the basic qualities are given below :

1. *Intelligence and ability :* Intelligence means strong commonsense and wisdom. A citizen must be able to distinguish between good and bad, right and wrong. He should be able to understand the affairs of the state. He should have the wisdom of electing right men to public office for the betterment and efficient running of the affairs of the state.

2. *Self Control :* Self-control is the soul of democracy and is the basic quality of a good citizen. He must regard the interest of the state more important than his personal interest. He should always be prepared to sacrifice his likes and dislikes for the common good of the community. He should respect the opinion of others. He should convince other people of his stand with arguments rather than thrusting his own opinion on them. He must exercise patience and moderation in his dealings with others. If the citizens of a state do not possess this quality of self-control, such a state may fall a prey to disorder and chaos.

3. *Conscience.* A good citizen must be prompt in discharging his duties honestly, conscientiously and diligently. He should be ready to sacrifice for his country. He must obey the laws and orders of the state and defend the country if need arises. He should not, in any circumstances, sell or bargain away his conscience.

Conditions necessary for Good Citizenship :

Intelligence, self-control and conscience are such basic qualities as will enable an individual to become a good citizen. In addition to these, there are certain conditions under which good citizenship can flourish. Some of the more important of these conditions are:

1. *Education.* Education is the basis of good citizenship. It enables an individual to distinguish between good and bad, right and wrong, and to lead his life on the right lines. An educated person is aware of his rights and conscious of his duties. He takes an intelligent part in political affairs, fulfils his social duties and raises the tone of the social system. It is, therefore, the duty of the government to popularise education in the country through all possible means so that the largest possible number of people can take part in the development of the country.

2. *Good Health.* A good and trained mind is very important for good citizenship It cannot, however, be achieved without good health, because only a healthy body can house a healthy mind. Weak and sickly citizens can neither be good soldiers, nor sturdy workers. An un-healthy body kills enterprise, initiative and self-confidence. Therefore, it is not only the duty of a citizen to look after his health but also the responsibility of the state to properly care for the health of the community.

3. *Economic Well-being.* It may be difficult for a person to be honest, independent and public-spirited if his economic condition is not sound and his material needs remain unsatisfied. It is, therefore, the responsibility of the government to provide him with adequate opportunities to earn a decent living so that he can discharge his duties faithfully.

4. *Self-Confidence.* It is not possible for anybody to accomplish anything without imbibing a spirit of self-confidence. A good citizen always depends on himself,

his wisdom and his strength, and he does so not only to help himself but also to help others. The government should, therefore, grant and protect basic rights of the citizens so that they can carry on their work with confidence.

5. *Thrift.* A good citizen believes in thrift. He does not spend his earnings wastefully on idle pursuits and customs. On the contrary, he saves something for himself and his nation after meeting necessary expenses on daily needs. Institutions should, therefore, be established to encourage the habit of thrift.

6. *Sacrifice.* A good citizen is a firm believer in fellow-feeling and sympathy. He regards the welfare and comfort of others more important than his own. He respects the rights of others. He helps the poor and the needy as far as he possibly can. He does not do anything that goes against collective good even if he has to suffer for it.

7. *Hard Work.* It is not possible for anybody to achieve any thing without hard work. Development of the country depends on hard work. It is, therefore, necessary for a good citizen to work with singleness of purpose and dedication. He should not shirk work so that his country can prosper.

8. *Loyalty.* It is the duty of every citizen to be loyal to his country. He should not only obey the laws of the land himself but also persuade others to do so. He should always be prepared to make the supreme sacrifice for the security and integrity of the country.

Hindrance to Good Citizenship :

Qualities of good citizenship are imperative. But unfortunately, there are so many citizens who do not possess these qualities, because there are a number of obstacles in the way of acquiring these qualities. Some of the main hindrances are :

1. *Ignorance.* It is the biggest hindrance in the way of good citizenship. It is the enemy of intelligence and social and political consciousness. An ignorant person is not conscious of his rights and duties and takes no interest in public affairs. He is easily taken in by opportunists and clever people, who use him for their own ends. Such a person can never be a good or valuable citizen in anyway.

2. *Poverty.* Poverty is the biggest enemy of man. It checks the growth of human faculties. It demoralises man. A person, whose primary needs are not satisfied, cannot take any effective interest in national affairs. Some poor people fall a prey to the evil schemes of selfish individuals and cannot, therefore, act for themselves. Consequently, the country is left at the mercy of dishonest persons.

3. *Selfishness.* Self-interest is the enemy of public interest. Selfish persons usurp the rights of other persons to further their own interest, indulge in dishonesty, nepotism and corruption, and buy and sell votes. They regard self-interest more important than national interest. Such persons can, therefore, never be good citizens.

4. *Indolence.* Indolence means indifference and apathy to public affairs. A large number of people do not take interest in public affairs on account of indolence and laziness. They lose all sense of responsibility and abdicate in favour of others. Government degenerates into despotism or self-seekers come to the fore and destroy the administration. In short, indolence and indifference cause general decline.

5. *Moral Degeneration.* Moral degeneration gives birth to many evils in the society. When moral degeneration sets in, members of the state become dishonest,

corrupt and selfish. Qualities of honesty and patriotism disappear. To expect of such persons to do their duty to the state in a befitting manner is absurd.

6. *Partisanship*. Modern democratic governments cannot be run without political parties. That is why the existence of political parties is regarded a blessing for democracy. But sometimes parties degenerate into factions and breed evil and hatred. Each faction tries to come into power by fair or foul means and indulges in unfounded and malicious propaganda to make other factions unpopular among the people. Loyalty to the faction comes to be regarded more important than loyalty to the country. Political unrest and chaos prevail in the country. In this way, factionalism becomes a hindrance in the way of good citizenship.

7. *Prejudice*. Religious, provincial and regional prejudices divide the nation into various groups, communities and classes, which create difficulties in the way of development of the country. Therefore, prejudice is one of the biggest obstacles in the way of good citizenship.

EXERCISES

1. **What do you mean by a citizen? What are the various kinds of citizens that you have studied?**
2. **Mention some of the important qualities that a good citizen must possess.**
3. **Discuss some of the important hindrances to good citizenship.**

Chapter III

Rights and Duties

We may define right as a claim or power of an individual or group of individuals for freedom or opportunity for action considered as fundamental for their well-being and allowed or recognised by the society or the state.

Some of the important rights are as given below :—

(*i*) *Right of Life* : It is the most fundamental of all rights. Without life, there shall be neither the individual, nor the society, nor the state. But life is meaningless if there is no guarantee for its safety and security. Hence, the right to life means the protection of the life of the citizen both within and without the state. It means that he will not be killed or injured in any way. But the right to life is not absolute. The state can call upon its citizens to sacrifice their lives in order to defend the state or country in times of war or aggression.

(*ii*) *Right to Liberty and Free Movement :* Every citizen has the right to move freely from one place to another in his own country and can even go elsewhere in the world. Freedom of movement gives every person a chance to choose his career in any place which suits him best. Like the right to life, the right to liberty is also not absolute. In certain conditions, the state can impose restrictions on the free movement of its citizens, such as in times of war or national emergency.

(*iii*) *Right to Property :* The right to property means the right to earn income or profits from land, shops, factories or other means of production. It implies the right to unhampered use of one's income and wealth, land and goods, the right to sell them, or alienate them, the right to exchange them and the right to bequeath them. The right to property is also not an unlimited right. Every state imposes certain restrictions on its enjoyment.

(*iv*) *Freedom of Religion and Conscience :* It means that every one should be free to profess and practise any religion he likes.

(*v*) *Right to Education :* Education is, besides other things, very necessary for active and intelligent citizenship. Its importance is particularly great in a democracy, because the masses of citizens elect their rulers. An illiterate person cannot develop his personality to the full nor articulate his experience and express his opinion on matters of national or political importance. Hence, many modern states have recognised the right to education, particularly the right to free, compulsory, elementary education.

(*vi*) *Right to Work :* This right is implicit in the right to life. If a society fails to provide its citizens such opportunities for work as would enable them to earn a decent income, it would deprive them of the means to live. Hence, it is now increasingly recognised that the modern state must guarantee the right to work to its citizens.

(*vii*) *Freedom of Speech, Opinion, Press or Publication* **:** These rights are also one of the most fundamental rights of modern life. They are the basic rights of a democracy. They are essential to the individual's liberty, both social, moral and political. This freedom means that a citizen should have the right to think freely, and express his opinions freely without any interference by the government. Like other rights, however, this freedom is also not absolute. Certain limitations are imposed on it. Law imposes restrictions on making such statements as are libellous or slanderous, or on printing such matters as are obscene.

(*viii*) *Freedom of Association :* This freedom goes hand in hand with the freedom of opinion and press. It means the right to form any kind of association for various purposes, such as religious, social, political, scientific, commercial or cultural and literary associations. But this right is also not absolute. Only such associations and organisations can be formed which serve legal ends ; and they must be formed and operated in a peaceful and constitutional manner. Illegal or violent assemblies which disturb peace and order, are prohibited by law.

(*ix*) *The Right to Contract :* A contract is an agreement between two or more persons or parties, imposing obligations on each other for reciprocal advantages or consideration. Hence, the state grants the freedom and right of contract. But, like other civil freedoms, the freedom of contract is also not an unlimited right. The state forbids such contracts as are immoral or dangerous to the security of the state.

(*x*) *Right to Family Life :* Family is mainly a private affair of the member of a family group. Law grants several family rights, as the right to marry without any legal restrictions in the choice of one's partner, the right to divorce, the right of wife to be maintained by her husband and of the children by their parents, the right of inheritance, etc.

(*xi*) *Right to Equality before Law :* It comes from the right to justice. It means that all citizens regardless of differences of wealth, social position, etc., should be equally protected by law.

(*xii*) *Right to Vote :* It is one of the most important rights, especially in modern democratic states. The right to vote means that every adult citizen has the right to express his opinion as to who should be his representative to run the government by casting a vote in his favour at the time of election.

(*xiii*) *Right of election to the legislature* : This right is the complement of the right to vote. It is not enough that a citizen should have only the right to vote ; he must also have the right to be elected to the law-making body of the state.

(*xiv*) *Right to public office* : Every citizen has the right to hold or to be appointed to any public office in the state, provided he has requisite qualifications for it. It means that the poorest man can hold the highest office in the country. This right presumes that there is full equality of opportunity for all citizens in respect of public services, regardless of income, social status, colour, race, religion, caste or sex.

DUTIES

A duty is an obligation to do or not to do something for the sake of others. It is something we owe to others as social beings. Duties imply do's or don'ts. Citizenship is more concerned with duties than with rights of the individual, because citizenship is the realization of the truth that, as members of a community, we share t gether all the benefits and advantages of social life a common good.

Relation between Rights and Duties: Rights a duties are so much interdependent that they might regarded as the two sides of one and the same coin.

Firstly, rights imply duties. Where there is a rig there is a duty as well. Rights and duties are two en of the social relation between two or more individua When I claim that I have a right to something, I al impose a duty on all other persons to enable me to enj this right. They are bound by a duty not to interfe in or deprive me of the enjoyment of my right, f example, to my house. Thus, there is a relation betwe me and all others individuals through the house or bo etc., one end of which is my right and the other end the duty of others. Thus, rights and duties go togeth

Rights imply duties in still another sense. A rig is something for one's own benefit; and a duty is to d something for the benefit of others. I cannot clai something for my own good without being equally rea to do some other thing for the good of others. Whe I claim that I have a right to live in my house, I hav also the duty to let others live in the same manner i their houses. Do unto others as you wish to be don by is the primary and basic rule of society and morality

Furthermore, rights and duties are correlative. Th correlation is through functions. A right is a claim t do or enjoy something which is a socially useful o necessary function. Every right to performance o the function attached to it is an empty claim and a anti-social behaviour. When a person has enjoye a right, he has the duty to perform its function als For instance, every citizen has a right to educatio

t when he has acquired education or training, he
ist be ready to contribute his share to the social good
which he has educated or trained himself. This is
duty. State or society has given me my rights so
at I may contribute my share or fulfil my duty towards
e common good.

Duties of a citizen towards the state : If a state is
own by the rights it maintains, a citizen is judged by
e duties he fulfils. He has duties towards other citi-
ns, associations and the state. We shall here enume-
te some of his duties and obligations towards the state.

(*i*) *Obedience to law* : The most important duty of
e citizen is to obey the laws of the state. It is the hall-
ark of good citizenship. A good citizen obeys a law
en if he believes it to be against the common good or
pressive or bad. Disobedience of laws is like a conta-
ous disease ; it spreads from citizen to citizen and
om law to law. Hence to disobey a law because it is
d, is a political mistake and a public calamity. A citi-
n has, however, constitutional and peaceful means of
rsuading his fellow-citizens of the desirability of chang-
g the laws which he believes to be morally bad or
pressive.

(*ii*) *Allegiance to the state* : Another supreme duty
the citizen is the allegiance or loyalty to the state to
ich he belongs. Allegiance means whole-hearted ser-
ce to the state. The duty of allegiance implies the
ity to defend the state against its enemies and dangers
war, aggression and rebellion, to support the officials
the state in the performance of their duties, and to
rform public duties.

(*iii*) *Payment of taxes* : Payment of taxes in time is
other duty of the citizens. Government needs money
perform its multifarious functions and finance its
creasing activities. But this money has to come from
e pockets of the people. If they evade the payment

of taxes, the government will fail to maintain law an order and discharge its responsibilities. Hence th prompt and honest payment of taxes by the citizens i the best guarantee of promoting common good an general welfare of the nation.

(*iv*) *Duty to vote* : Every democratic state has granted the right to vote to its citizens. But it is no less duty than right. The form and functions of the government are determined by the votes of the people. T have a good government means that the people shoul cast their votes honestly, intelligently and conscientiously in order to elect good representatives. Henc voting is a duty.

EXERCISES

1. Define the term "Right". Give some of the importa rights in a democratic state.
2. Define the term "Duty". Give some of the important duti in a democratic state.
3. Discuss the relationship between rights & duties.

Chapter IV

The State and Government

In an earlier chapter, the state was described as a vast circle of social life. In this chapter, an attemp is being made to give a definition of the state, its essential elements and the difference between state and government.

Definition of State:

Political thinkers have defined state in a variety of ways :

Aristotle says that *the state is an organisation of families and villages, the aim of which is to provide a full and self-sufficient life for its members.*

Woolsey believes that the state *is an institution which, through its organs, establishes a just society according to some permanent laws, in a definite territory.*

Woodrow Wilson says that *the state is a people organised for law within a definite territory.*

Professor Garner says that *the state is a community of persons, more or less numerous, permanently occupying a definite portion of territory, independent of external control and possessing an organized government to which the great body of inhabitants render habitual obedience.*

Essential Elements of State :

These definitions bring out the fact that state is composed of four essential elements i.e. *population, territory, government and sovereignty.*

1. *Population* : The number and kind of peop living in a state should be such that it becomes imper tive for these people to establish a separate governme from the neighbouring populations provided that the are in a position to defray the expenses of the govern ment. The population should not be so large as to mak the management of its affairs impossible for a centr government, or so small and so weak as to jeopardise i independent and sovereign status.

2. *Territory* : There can be no state unless th people who constitute it occupy a definite territory on permanent basis. A nomadic tribe, wandering fro place to place in search of sustenance, is not a state, eve if it has a large population. No limit to the size of terr tory can be laid down. There are states with an area only a few hundred square kilometres and at the sam time there are a few with an area of lacs of square kil metres.

3. *Government* : There must be a governme which is obeyed by majority of the people. Every sta must possess a machinery for its maintenance an efficient running. Government is the machinery throug which the will of the state is expressed.

4. *Sovereignty* : The last characteristic of the sta is sovereignty. It means that the inhabitants of the sta should have the power to regulate their internal and e ternal affairs as they like ; that the state should be fr of all external authority or control ; and that it shou not be obliged to consult, or take directions from a external power. Bharat and Pakistan were under th control of the British Government till August 14, 194 India was not, therefore, a state. On the other hand, was a part of the State of Great Britain. Sovereignty Great Britain ceased on the said date and the States Pakistan and Bharat came into existence.

A state cannot come into existence, even if one of hese elements is lacking.

State and Government:

We have already seen that government is just one of the four elements, a state is composed of. It has also been made clear that state and government are two distinct terms. They can be differentiated as follows:

(*i*) A state is composed of the whole of population living within its borders, while a government consists of only those persons who are responsible for running the administration of the state, *e.g.* State of Pakistan is composed of approximately eight and a half crore of persons, while Government of Pakistan consists of the Head of the State, Head of the Government, Provincial Governors, Central and Provincial Ministers, Members of the Parliament and other government officials. Government is, therefore, one of the parts of a state.

(*ii*) Government is an organ through which will of the state is expressed. State is, therefore, the master and government, its employee or agent.

(*iii*) State is a permanent institution, while government is a temporary one. Elections are held after a stipulated period of time in democratic states, which may bring about a change in the government. But the state remains the same. In countries where such a mechanism does not exist, governments are changed through revolutions.

(*iv*) State and government both wield power. Actual supreme power belongs to the state, while government exercises only those powers which are given to it by the state.

(*v*) Existence of a state is not necessary for th existence of a government. A government di exist in the Indo-Pakistan sub-continent befor 1947, but it was not a state in the true sens because the people did not enjoy sovereignty.

Aims and objects of the State :

At this stage, it is necessary to discuss the questio of aims and objects of the state. Various political thinkers have described these in a variety of ways :

Aristotle says that *the task of the state is to make th citizens good by purifying their character.*

Hobbes believes that *the aim of the state is to protec the life and property of its citizens.*

Locke says that *the aim of the state is to safeguar the life, property and independence of the inhabitants of th state.*

Rousseau believes that *the object of the state is t work for the welfare and prosperity of its members.*

In the opinion of Bentham and Mill, *the state shoul work for the maximum good of the maximum number o people.*

Perhaps *the best opinion expressed in regard to th aims and objects of the state is that of Burgess.* He ha discussed these under three heads :

(*a*) *Basic Object* : According to Burgess, basic ai of the state is to establish law and order in th country through the agency of government an to protect the life, property and independenc of its people, so that they can lead a peacefu and secure life. In other words, *basic aim o the state is to create conditions in which the pros* *perity and individual development of its members is ensured.*

(*b*) *Secondary Object* : Burgess believes that *secondary object of the state is to work for the common good of the people and development of national faculties.* The government and members of the state must work unitedly to achieve this objective. In the opinion of Burgess, secondary object is the corollary of the basic object.

(*c*) *Final Object* : Final object is the logical result of the secondary object. *It requires the state to find ways and means for the welfare and development of mankind.*

Three objects are related to each other very closely. Common good of the society is not possible without the prosperity and development of every individual. So also, different nations of the world cannot achieve prosperity unless mankind as a whole becomes prosperous. Conversely, if all the nations of the world start working unitedly for the common interests of mankind, instead of national interests, their national interests will automatically be served. Similarly, if individuals adopt ways and means for the common good and welfare of the society as a whole, instead of personal welfare, their personal welfare will automatically be assured.

Islamic point of view :

According to Islam, aims and objects of the State are :

(*i*) Social justice should be ensured within the State.

(*ii*) Good should be popularised in all forms so that moral piety, goodness, development and welfare of citizens is ensured. Evil should be suppressed and eliminated in all its forms so that God's earth and people are saved from destruction and wickedness.

(*iii*) Rights of the members of the state should be safeguarded.

(*iv*) Independence of the members of the state should be safeguarded and the state protected from external aggression and internal upheaval.

(*v*) Efforts should be made to promote goodness and eliminate evil throughout the world.

Kinds of Government :

Every state has four essential elements viz. population, territory, government and sovereignty. In this respect, all states are equal.

An important element of the state is government. *Government is the brain of the state and it does the thinking for it. Government is the heart of the state ; it realizes its hopes and aspirations. Government is the tongue of the state and gives expression to its ideas and aspirations. Government represents various organs of the state and gives a practical shape to the aspirations and plans of the state.*

Governments can be of various kinds. It is not necessary that every state should have the same kind of government. Therefore, *nature of the government can change the nature of the state.* To form a correct opinion of a state, we should find out the kind of government it has.

According to Professor Leacock, governments are basically of two kinds :

(*a*) *Democratic Government* : In this form, right to govern is vested in the people of the state.

(Detailed account of the system is being given in the coming pages).

(*b*) *Totalitarian Government* : It is a form of government in which supreme power is vested in one person. Absolute monarchies of olden days and present-day dictatorships are included in this form.

(A detailed account of this form is being given in the coming pages).

Democracy can again be divided into two kinds :

(*i*) *Constitutional Monarchy* : *It is a government in which a king is the head of state. He is not elected by members of the state.* On the other hand, he inherits this office. In a constitutional monarchy, legally speaking, the king has the power to rule the state, but in actual practice, power is in the hands of the government which is responsible to the legislature. The government uses that power in accordance with the wishes and in the interest of the people. *This kind of government is to be found in Great Britain.*

(*ii*) *Republic* : *It is a form of government in which head of the state is elected by the people of the country for a definite period of time. His powers are determined by the Constitution, which vary from state to state. This form of government can be found in Pakistan, Bharat and the United States of America.* The President enjoys vast powers in the United States of America while the President of Bharat has limited powers, as in the case of a constitutional monarch.

Constitutional monarchies and republics can have two kinds of government:

(*a*) *Unitary* : *In this form of government, the cen-*

tral government enjoys all powers to run th administration of the country. Central gover ment does delegate some authority to the pro vinces, but it can always withdraw it. *Grea Britain is a case in point.*

(*b*) *Federal* : *It is a form of government in whic distribution of powers between the central an provincial governments is laid down in the Cons titution. Pakistan, United States of America an Bharat have federal form of government.*

(A detailed account of the federal and unitary form of government is being given in the coming pages).

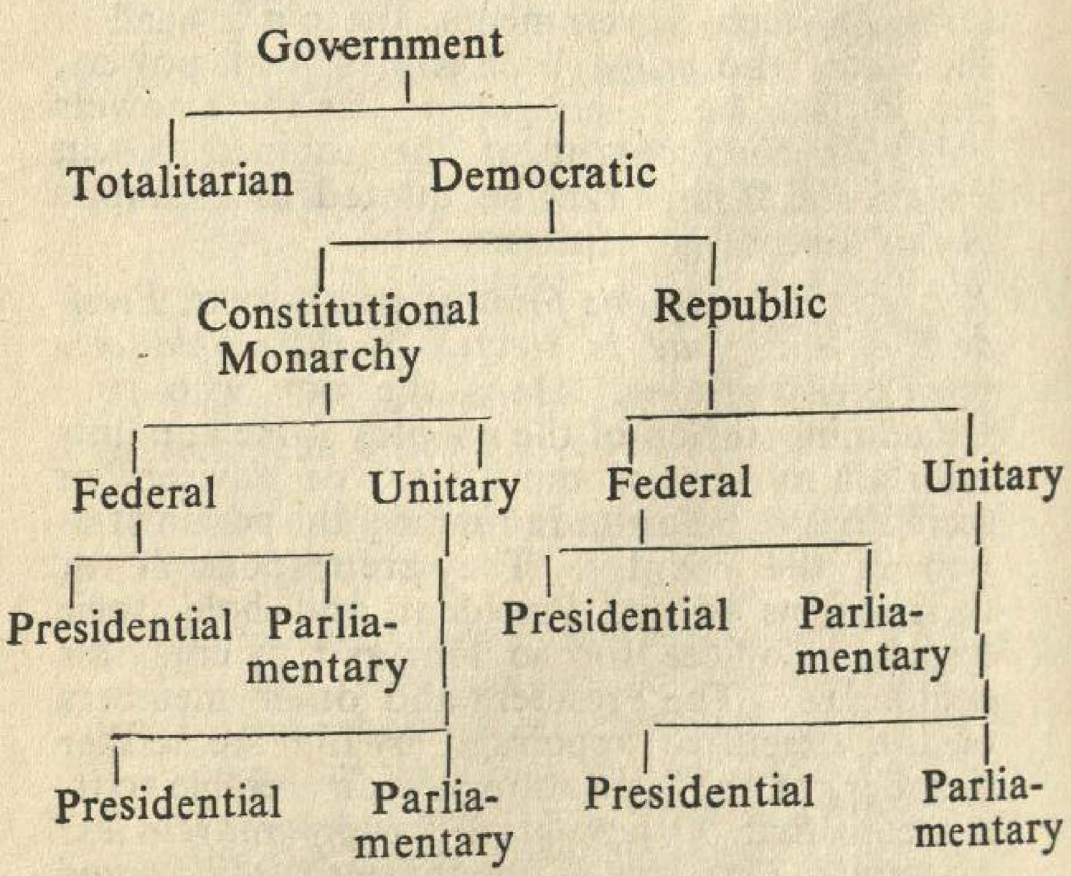
Unitary and federal forms of government can agai be of two kinds :

(*i*) *Parliamentary* : *In a parliamentary form, govern ment is responsible to the legislature.* Peopl elect their representatives to the legislatur Various political parties take part in the elec tions. Every party tries to win as many seat in the legislature as possible. The leader of th party, which enjoys majority in the legislature is appointed Prime Minister. The Prime Minis ter selects his ministers in consultation with hi party. The cabinet, thus formed, enjoys ful powers to run the administration of the countr

As members of the legislature, the ministe also take part in framing the laws. Individuall and collectively, the ministers are responsible t the legislature. They hold their offices for a long as they enjoy the confidence of the legisla ture. If the legislature passes no-confidenc motion against any one or all the ministers, th whole cabinet has to resign. In such a case, govern ment is handed over to the group which enjoy the confidence of the legislature. It means tha legislature is more powerful than the executive in parliamentary form of government. Actually, the executive is a small committee of the legislature. In such governments, there is a head of the State, who *prima facia* enjoys vast powers, but in fact he is obliged to use these powers only with the consent of the cabinet. Great Britain and Bharat can be quoted as examples of this kind of government.

(*ii*) *Presidential*: *In this form of government, President of the state is elected by the people for a given period of time.* He is the one who runs the administration of the country. He appoints a certain number of ministers, or advisers or secretaries to help him in running the administration of the country. They are responsible for their actions to the President and hold their respective offices for so long as they enjoy his confidence. The President and other members of the executive appointed by him are neither members of the legislature, nor answerable to it. It means that *the legislature is comparatively less powerful. This kind of government is to be found in the United States of America.*

CHART SHOWING FORMS OF GOVERNMENT


Government
Totalitarian
Democratic
Constitutional Monarchy
Republic
Federal
Unitary
Federal
Unitary
Presidential
Parliamentary
Presidential
Parliamentary
Presidential
Parliamentary
Presidential
Parliamentary

Now we shall discuss democracy and dictatorship unitary and federal, and parliamentary and presidential forms of government, in some what detail.

DEMOCRACY

The term 'democracy' comes from two Greek words 'demos' (the people) and 'kratos' (power). Thus, literally, *it means the rule of the people.*

Democracy has been defined variously by various political thinkers. *In the opinion of Aristotle democracy is that form of government in which majority of members of the state exercise power instead of one or a few persons.* But, he regards it as a bad form of government.

In the words of Abraham Lincoln, "Democracy is the *government of the people, by the people and for the people*".

According to Seely democracy is a form of government in which every citizen takes part in the work of the government.

After a thorough study of these definitions, it becomes clear that all sane adults have the right to participate in the work of the government in an ideal democratic government. People have the right to freely criticise the actions of the government. If they are not satisfied with the work of the government, they can change it through constitutional means. Although all decisions, in a democratic set up, are taken by majority vote, yet the opinion of the minority is respected. In short, machinery of the government revolves round the will of the people.

Kinds of Democracy :

There are two kinds of democratic governments :

(*a*) *Direct or Pure Democracy* : *It is a kind of government in which all adult citizens directly take part in the work of the government.* They assemble at a given place and take decisions on all matters, such as appointment of government functionaries, fixation of rates of taxes, framing of government policies, treaties with foreign countries, etc. Such a government can function in a state, the area and the population of which are limited.This kind of government was found in ancient Greek city states. Areas of modern states are very big and population figures run into crores. It is not, therefore, possible to work such a democratic system these days.

(*b*) *Indirect or Representative Democracy* : *It is a system of government in which people do not* *exercise the governing power themselves.* On the other hand, *they elect their representatives after a given interval of time and delegate their governing power to them.* These representatives of people frame laws for the state and govern the country. People, however, keep an eye on their actions. All modern states are big by way of areas and population, therefore, representative form of democracy is the only suitable form. Actually, this is what we mean by democracy these days.

Advantages of Democracy :

Democracy has a number of advantages:

(*i*) Democracy provides for maximum individual liberty. Those who exercise authority are chosen by the people without any restraint. The people, therefore, enjoy a lot of power in the affairs of the state.

(*ii*) The second advantage of democracy is equality. All members of the state enjoy equal rights without any distinction, because it is the government of the people as a whole, and not of a group or class.

(*iii*) If members of the government lose confidence of the people or prove in-efficient, they can be changed. Therefore, the government regards interests of the people paramount and does not do anything which shakes their confidence in them.

(*iv*) Democracy is the best means of training individuals in citizenship. In this system, people get an opportunity to think over the affairs of the state to form an opinion about them and take decisions. Every citizen regards himself as a part of the machinery of the government. This produces a sense of pride and self-confidence in him and increases his interest in the affairs of the state.

(*v*) Democracy allows freedom of thought, which makes for development of knowledge and arts, improvement in the system of government and economic prosperity of the people.

Disadvantages of Democracy :

Main disadvantages of democracy are :—

(*i*) Party System, which is indispensable for democracy, encourages struggle for power between various parties. It divides the nation into groups. These groups try to score a victory over one another by fair or foul means. This has a bad effect on individual and national character.

(*ii*) False propaganda is freely indulged in to mislead people at the time of elections. Votes are purchased with money. Racial, provincial and regional prejudices are aroused, which harm national moral, culture, social life and politics.

(*iii*) In practice, democracy is the rule of ignorance. It pays no attention to quality. Votes are counted, not weighed, although individuals are required to possess some qualities of head and heart to run the affairs of the government, efficiently and successfully.

(*iv*) Sometimes capitalist class, including zamindars and jagirdars, captures the legislature with the help of money and pressure tactics. The result is that there is the rule of propertied class and the interests of workers and low-and-middle-income groups are completely ignored.

(*v*) In a democratic set up, majority party rules the country, which is likely to regard the interests of the party more important than the interests of the country. Moreover, much of its time and energy is spent on strengthening its own position and suppressing the opposition parties.

Pre-requisites of Democracy :

Certain conditions are essential if democracy is to work successfully :—

(*i*) **High Standard of Living :** As every citizen has to take part in the running of the government, it is essential that the people should lead a secure and prosperous life. Men living in want and hunger cannot be expected to take an active and intelligent interest in public affairs.

(*ii*) *Education and Political Consciousness* : People must be properly educated and politically conscious, so that they are in a position to appreciate national problems and discharge their duties to the state. Members of the state should be provided all possible facilities for higher education so that suitable persons are made available for high offices in the government.

(*iii*) *Passion for Self-Government* : People should have passion for self-government so that they elect the best and the ablest persons for running the government. In the absence of this passion, they will grow indifferent to the affairs of the state and selfish persons would take advantage of this situation and capture power in the state.

DICTATORSHIP

Dictatorship is a form of government in which one person wields power with the help of an organized group o *party.* An organised political party somehow or the other captures power and its leader takes over as head of the government and the state. *He is called the dictator. Once he is in power, nothing but death can remove him.*

Characteristics of Dictatorship :

Dictatorship stresses complete national unity. That is why it suppresses all political parties except the one in power. Everyone is obliged to support the ruling party. Difference of opinion is not tolerated, man is reduced to the position of a cog in the wheel. Dictatorship considers party more important than the individual. It, therefore, demands complete obedience to the party (government). Nobody is allowed to express an opinion in political matters or criticise the government. Whosoever speaks, must speak in support of the government. Nobody is allowed to think except the few brains in the government.

Advantages of Dictatorship :

Main advantages of dictatorship are :—

(*i*) If the dictator is wise and sensible, he would raise the economic, social and political standard of the country to great heights in a very short time.

(*ii*) Dictatorship is always prompt in arriving at decisions and implementing them. In addition to this, dictatorship can keep secrets of the state in a better form. It is, therefore, in some respects, more successful than democracy, particularly when the country is passing through a critical phase of its history.

(*iii*) Dictatorship eliminates differences between various classes and thus creates, conditions necessary for solidarity and co-operation among all.

(*iv*) The work of economic development is taken over by the government, which plans it in an organized manner. Unemployment is eliminated. Production increases. Development in all fields is smooth and equal.

Disadvantages of Dictatorship :

Major disadvantages of dictatorship are given below :—

(*i*) Dictatorship is generally based on nationalism. Sense of racial pride and superiority over others is stressed. It creates hatred against other nations. Force and violence are advocated for colonial expansion. This, of course, does no good to either nation.

(*ii*) All political parties, except the one in power, are eliminated by force. Everyone, who differs with the ruling party in any matter, is declared an enemy of the country. Criticism of the government and free expression of opinion are not tolerated.

(*iii*) Total regimentation is introduced in all spheres of life including economic, cultural, religious and political. Except for a few in the government, individuals are left with no initiative or enterprise.

Democracy and Dictatorship :

The following points distinguish democracy from dictatorship :

(*i*) In a democracy, people wield power, while in a dictatorship, one person wields power over all others. In a democracy, government respects public opinion, while in a dictatorship, every work is done according to the wishes of the dictator.

(*ii*) Basic principle of democracy is that the state is for the people, therefore, government should always take into account interests of the people. Supporters of dictatorship hold that state is more important than an individual. Therefore, the individual is required to carry out all orders and behests of the government.

(*iii*) A number of political parties can co-exist in a democracy. In a dictatorship, all parties, except the one in power, are eliminated by force.

(*iv*) In a democracy, all important questions are decided in consultation with representatives of the people, which take time. On the other hand, a dictator has the power to decide every matter himself, which takes no time.

Class struggle prospers in a democracy, while in a dictatorship various classes are obliged to co-operate with each other in the interest of the country.

PARLIAMENTARY AND PRESIDENTIAL FORMS OF GOVERNMENT

Parliamentary form of government :

In this system, leader of the party claiming the largest number of seats in the legislature is invited to form the government. He is called the Prime Minister. He selects his ministers. Members of his cabinet have to be members of the legislature. The cabinet is responsible to the legislature.

This system has the following **merits :**

1. *Responsible Government :* It is a responsible government because :

(*a*) it is a government formed by the majority party, which respects public opinion so that it is returned to power again ;

(*b*) the whole cabinet has to resign in case it loses the confidence of the House because of an unfortunate happening.

2. *Close contact between Executive and Legislature :* Cabinet is always a part of the legislature. Members of the cabinet are responsible to the legislature for their policies and for the bills, they present about their respective departments. This close relationship between the executive and the legislature makes the parliamentary system very effective.

3. *Supremacy of legislature :* As the government is formed by the majority party, the legislature enjoys wide powers. It guides the cabinet as regards the policies, it must follow.

4. *Effective Opposition :* Opposition plays a very important role in a parliamentary form of government. It makes its presence felt in the House because it represents a certain opinion of the people. The opposition acts singly in a two-party system and collectively in a multi-party system.

5. *Prompt in Decisions :* A bill presented by the majority party generally becomes the law. Opposition can only delay it ; that, too, for a short time. That is why there is promptness in taking decisions.

6. *Responsibility to Legislature :* Members of the cabinet are responsible to the legislature collectively, as also individually for the ministries, they hold charge of. They are responsible to the Prime Minister also.

The parliamentary system has some **disadvantages** :

1. *Lack of Stability :* Cabinet does not enjoy fixed tenure of government. It remains in office for as long

as it enjoys the confidence of the legislature. It has to resign as soon as it loses its confidence. In a multi-party legislature, the majority party can easily lose that confidence.

2. *Partisanship :* Un-necessary disputes arise between various political parties. Opposition may often indulge in criticism for criticism sake, irrespective of government policies being useful for the country or not. It hardly ever makes any contribution by way of constructive criticism.

3. *Dictatorship of the Cabinet :* When a political party succeeds in acquiring majority in the legislature, and manages to maintain it, its cabinet can push any bill through the legislature without any real hindrance. Such a situation often makes the cabinet dictatorial in character.

4. *Undue Interference in Administration :* Ministers indulge in favourtism to please their loyal workers. They appoint them to prize posts not only in departments in their charge but also in other departments. In this way, capable officers are replaced by yes-men of the ministers.

5. *Unstable Policies* : The policies introduced by a cabinet, which loses the confidence of the legislature, are sometime reversed by the succeeding cabinet. New policies are then framed by the new cabinet. Such a situation often gives rise to instability, and political and other problems remain unsolved.

PRESIDENTIAL FORM OF GOVERNMENT

President, who is head of the state, is elected to his office either directly or indirectly. He forms his own cabinet. Members of his cabinet cannot be members of the legislature. The ministers are responsible to the President and not to the legislature. This system is prevalent in the United States of America.

This system of government has the following adv tages :

1. *Stable Government* : The President enjoys a f ed tenure of office. He does not have to relinqui office, even if he is not supported by the legislature. T method laid down for his removal is lengthy and diffic to accomplish. He plans economy for the country a tries to promote its development. He consolidat defence of the country on a sound footing. As he elected by the people, directly or indirectly, he tries provide them economic security. In short, this syste guarantees strong and stable government.

2. *Effective in Emergencies* : The President a his cabinet enjoy wide powers. They are prepared face consequences of their actions, good or bad. emergencies, the President acquires special powe which enable him to deal with such situations effective

3. *Prompt in Decisions* : The party in power tr to maintain and strengthen its position by speedy disp sal of cases. Ministers do not delay matters, as th are responsible to the President, who is there to see t progress of work.

4. *Continuity in Policy* : Policies once adopt by the government and approved by the legislature a usually followed without any difficulty or hindranc during the tenure.

5. *Experienced and Educated Ministers* : This the only system which provides wide and unlimit choice to the President to select his ministers and fo the cabinet, because they do not have to be members the legislature. He, therefore, selects only capab persons.

6. *Check against Factionalism* : The ruling par is aware of its strength and the opposition cannot crea

y problems for it, as is the case in parliamentary form f government. The parties can work for the strengthen- g of their respective positions without any distraction. his discourages factionalism.

The presidential system, however, suffers from some **rawbacks** such as :

1. *Lack of contact between Executive and the Legis- ature* : As the cabinet does not belong to the legisla- ure, it has to face difficulties in law—making. Ordi- ances issued by the President have to be ratified by the egislature, to which it is generally opposed. It creates kind of confrontation between the two.

2. *Lack of Accountability* : The ministers are responsible to the President only. The legislature cannot check them. Therefore, they work without much sense of accountability.

3. *Inelastic System* : This system normally does not admit of any change with the change in circumstances. All plans and arrangements are made for a given period of time.

4. *Insecurity of Fundamental Rights* : The President has the power to declare a state of emergency and suspend fundamental rights. The people feel helpless in such a situation.

5. *Government of Yes-men* : Most important duty of the members of the cabinet is to seek pleasure of the President because they hold office till they enjoy his pleasure. They hardly ever criticise his plans or actions. Most of the offices are, therefore, filled by yes-men which may prove a hindrance in the way of flow of leadership in the country.

UNITARY AND FEDERAL FORMS OF GOVERNMENT

Modern states are generally so large in area that it becomes difficult for one central government to run the administration of the country. It is, therefore, divided into provinces or other smaller units for administrative convenience. In respect of relations between the centre and the provinces, governments are of two kinds :

Unitary form of Government :

This kind of government enjoys so much power that it can change the boundaries of the provinces or even abolish them altogether. In this system, the provincial governments are required only to carry out the orders of the central authority and help it in the administration of the country. *The essential quality of a unitary state is the supremacy of the central parliament which frames laws for the whole of the country. Provincial governments only enforce these laws. However, the central government may delegate some authority to the provincial governments for administrative convenience. As these powers are delegated by the central government, they can also be withdrawn by it.* In a unitary state, provincial governments are responsible to the central government for their actions. In short, provincial governments only act as agents of the central government.

Unitary form of government guarantees the unity of the state. *This form is more suitable for those countries where linguistic, religious and racial differences either do not exist or are limited among the citizens of the state.* Britain is an example of unitary form of government.

Federal form of Government :

It is a form of government in which constitution of the country lays down the powers to be exercised by the central or federal government and the powers to be exercised by the provincial governments or unit authorities. The central authority represents the whole and acts on behalf of the whole in matters of common interest. Provincial or unit authorities exercise legislative and administrative powers allotted to them by the constitution in respect of matters concerning the units only. There are certain matters, however, in regard to which powers are exercised by both the central and provincial governments. In the constitution, these powers are included in the *concurrent list.*

There is a federal court to adjudicate differences between central and provincial governments or between two provincial governments, whose verdict has to be accepted by the governments concerned.

There are three basic characteristics of a federal state.

1. *Written Constitution* : In a federal system of government, powers are distributed between the federal and provincial governments. A written and inelastic constitution is, therefore, imperative, which should be respected and followed by the federal and provincial governments.

2. *Two Governments* : There are two governments in the federal system : federal or central and provincial. They perform their functions according to the limits laid down by the constitution. Every citizen is, therefore, bound by the laws framed by both the governments.

3. *Federal Court* : There is also a federal court in the federal system. It ensures that the two governments do not cross the limits laid down by the constitution. This court keeps watch over and protects the constitution from any infringement on the part of any of the two governments.

COMPARISON BETWEEN UNITARY AND FEDERAL FORMS OF GOVERNMENT

1. In unitary system, the citizens and the units of a state are united into one entity. In federal system, they co-operate voluntarily retaining their separate entity in some respects.

2. In a unitary state, provinces are formed for the sake of administrative convenience. They are not self-governing units. In a federal state, provinces are self-governing units in respect of matters belonging to the provinces, according to the constitution.

3. In a unitary state, the central government has the power to carve out new provinces or to abolish old ones. In a federal state, the federal government does not enjoy any such powers.

4. In a unitary state, the power to rule vests in the centre. In a federal state, these powers are distributed among the federal and provincial governments according to the constitution.

5. In a unitary state, there is one (central) legislature, which frames laws for the whole country. In a federal state, federal and provincial legislatures frame laws according to the powers allotted to them in the constitution. Thus two kinds of laws are enforced in the state, which every citizen has to obey.

6. Central government enjoys all the powers in a unitary state and the provincial governments accept its authority. In a federal state, neither federal nor provincial governments have power over each other to that extent. Both of them, however, accept the authority of the constitution and the federal court.

7. Unitary form of government is more suitable for states which do not have a very large area and whose members enjoy enough linguistic, religious and racial oneness. Federal form of government is more suitable for those states, citizens of which desire close co-operation in the hope of a variety of advantages from the union. Federal units, however, wish, at the same time, to retain their separate entity in certain respects.

ORGANS OF THE GOVERNMENT

In order to perform its duties, a government has to exercise three kinds of power. There are, therefore, three principal organs of the government, corresponding to the three kinds of power :

Legislature : Every government sets up a law code so that every citizen of the state knows the limits within which he enjoys freedom to act. The branch of government entrusted with the task of law-making is known as the legislature.

Executive : The task of government does not end with the framing of a law code. In order to keep law and order, it is essential that those laws are enforced in the country and people found guilty of contravening them are given exemplary punishment. The branch of the government which enforces laws is called the executive.

Judiciary : In every country, there are persons who contravene laws obtaining in the country, thus disturbing peace and order. As soon as a person is accused of such an act, it is the duty of the government to try such a person in an impartial manner. In case, the person is found guilty of that charge, the government awards punishment under the laws of the land. The branch of government which deals with and decides such cases in accordance with the principles of justice is known as the judiciary.

The legislature, the executive and the judiciary are called the organs of the government. Now each of these will be discussed separately in some detail.

LEGISLATURE

Functions and Powers : The legislature is named differently in different countries. In the United States of America, it is called *the Congress* and in Britain, it is called *the Parliament*. The principles governing the constitution of legislature vary from state to state. Therefore, the functions and powers of legislature are also no the same in all states. In non-democratic states, th function of legislature is to advise the ruler or the dictator. But in democratic states, legislature enjoys wid powers and privileges. Correspondingly, its duties ar also greater.

In democratic states, functions of the legislature may however, be classified as follows :

(*i*) *Legislative* : The basic function of the legislature is to frame laws to keep law and order i the state. It makes new laws in accordance wit the changing needs of society and amends o repeals old laws as may be required under th circumstances.

(*ii*) *Control over Finance* : Another function of th legislature is to pass the annual budget of th state. The legislature has a complete contro over the finances of a country. Taxes cannot b levied nor any expenditure allowed in any government department without the consent of th legislature.

(*iii*) *Administrative Control* : In a parliamentar form of government, administration is answerable to the legislature for its actions. If administration acts in a manner which is against th wishes of the legislature, the legislature can pas a vote of no-confidence and remove the functionaries exercising administrative powers. By exercising this administrative power, the legislatur exercises control over administration.

(*iv*) *Judicial Function* : In certain countries, legislature also enjoys some judicial powers. In Britain, the House of Lords is the highest Cour of Appeal. In the United States of America the Senate (which is a part of the legislature can try Judges of the Supreme Court and the President of the country for acting against the fundamental provisions of the Constitution.

(*v*) *Power to amend Constitution* : In some states, the legislature has the power to amend the constitution. In Britain, for example, the Parliament, acting in its ordinary course can bring about constitutional changes and amendments.

(*vi*) *Index of public opinion* : The legislature represents opinion of the people on various affairs of the state.

ORGANIZATION OF LEGISLATURE

The legislature in its organization is of two types :
(*i*) Unicameral. (*ii*) Bicameral.

Legislature comprising one single chamber is known as Unicameral legislature.

The system of organising a legislature into two chambers is known as Bicameral.

In most countries of the world legislature consists of two chambers. It is so in Britain, U.S.A., Canada and Bharat. In bicameral legislature, there is the Upper Chamber and the Lower Chamber.

STRUCTURE OF LEGISLATURE

(*i*) **Unicameral Legislature :**

Members of a unicameral legislature are usually elected by direct vote of citizens of the state. In certain states, some members are nominated by the government itself; but this system is gradually coming to an end in all parts of the world.

(*ii*) **Bicameral Legislature** :

In bicameral legislature, members of the Lower Cham-

ber are elected on the same basis as members in a unica
ral legislature. Upper chamber is, however, form
differently in different states :

(*a*) In Britain, the House of Lords has heredita
membership. The eldest son inherits the s
in the House after the death of the father.

(*b*) In United States of America and in Austral
members of the Upper Chamber or the Sen
are elected by the people of federating states.

(*c*) In India, members of the Upper Chamber kno
as Rajia Sabha are elected by the Members
the Provincial Assemblies.

RELATIONSHIP BETWEEN THE TWO CHAMBE

Upper chamber does not enjoy the same powers
every state. Senate in the United States of Americ
the most powerful upper chamber. In Britain,
House of Lords enjoys very limited powers. The Sen
in Canada is also very weak because it is composed
nominated members.

In most states, the lower chamber enjoys m
powers than the upper chamber. Bills for raising re
nue originate exclusively in the lower chamber. It
full rights to reject and amend them. So far as ot
affairs of the state are concerned, both chambers h
equal rights and powers. After one House has pass
the bill, it is sent to the second House for considerati
It is only after both the Houses agree to pass the
that it becomes a law.

HOW LAWS ARE FRAMED

*Proposals for legislation are introduced in the legi
ture in the form of bills.* Bills pertaining to finances
presented by government members only. Other bills m
be presented by any member of the legislature.

When a private member wants to introduce a bill, he informs the Speaker or President of the legislature before hand and sends a copy of the bill with it. The member also outlines the purpose of the bill, he wants to introduce. The Speaker of the House decides the manner in which a particular type of bill will be introduced in the legislature for consideration by it. He does so according to the rules of conduct of business governing the House.

Every bill has to pass through a number of stages before it becomes a law.

First Reading : First of all, the member proposing introduction of a bill moves for permission to do so. After he gets the permission from the chamber, the bill is published and printed in the official gazette. If the Speaker wishes, the bill may be published in the gazette before it is referred to the legislature for consideration. At this stage, he reads out the title and aims and objects of the bill in the House loudly. This is known as the first reading of a bill.

Second Reading : The member moving the bill may propose to the House to deal with it in one of the following three ways :

(*i*) that the bill be considered by the House.

(*ii*) that it may be referred to a committee for consideration.

(*iii*) that it may be circulated for eliciting public opinion.

After preliminary discussion, one of the above stated three proposals is accepted. This is known as the second reading of a bill.

Third Reading : If the House decides to deal with the bill in the manner set out at (*iii*) above, the mover of the bill usually proposes that the bill be referred to the *select committee* for consideration after public opinion has been elicited. In case, the House decides to deal with the bill as set out at (*ii*) above, the bill automatically goes to the select committee.

The select committee discusses the bill and suggests amendments if necessary. It then prepares a report on the bill which is presented before the House. This is known as the *Committee Stage* .

Fourth Stage : Now the member, who originally introduced the bill, moves the House for consideration of the bill in the light of the report submitted by the select committee. At this stage, detailed discussion takes place ; the bill is discussed clause by clause and members of the legislature are afforded opportunity to express their opinion on it. They can, if they so desire, propose amendments, which the legislature may accept or reject. In this way, the bill takes its final shape.

Final Stage : The bill now enters its final stage and the member introducing the bill moves that the bill may be passed by the House. No amendments are allowed at this stage. In this way, a bill is either passed or rejected by the House by majority vote. When a bill has been passed by the House, it goes direct to the head of the state, in the case of unicameral legislature. After receiving his assent, the bill becomes a law.

In countries which have bicameral legislature, law-making procedure is different. Here, after a bill has been passed by one House, it goes to the other House where again it has to undergo the same readings as in the first chamber. If a bill is passed by the second House in exactly the form it is presented to it by the first House, it is sent to the head of the state for the purpose of receiving his assent to make it a law. If, however, the second House wants any amendment in the bill, it again goes to the first House for consideration. The two Houses try to arrive at mutual understanding and after making necessary amendments pass the bill and send it up for receiving the assent of the head of the state. In case, however, the two Houses do not agree or arrive at a compromise, the bill normally stands rejected.

EXECUTIVE

The executive usually consists of three elements :

(*i*) *Head of the State* : The most important member in control of administration is its head. He is head of the state and symbol of the unity of the state. In some countries, he enjoys real powers which he exercises in his discretion. This is the case with the President of the United States of America. However, in certain countries Heads of States either do not have real powers or very little of real powers. Such is the case with Britain and with the President of India.

(*ii*) *Ministers, Secretaries or Advisers* : It is impossible for only one man to run the entire administration of a country. Therefore, more persons are appointed who run the affairs of the country. They supervise and control the various departments of government. In countries, where heads of states do not enjoy real powers, persons who are placed in charge of running government departments are generally called ministers, and their council is called cabinet. Ministers are selected out of members of the legislature and they are answerable to the legislature for their actions. In countries, where heads of states enjoy real powers, persons in charge of government departments are usually called Advisers or Secretaries. They are nominated by the head of the state. They are not members of the legislature and are answerable to the head of the state only.

(*iii*) *Civil Service*: Head of the state and his ministers act merely as policy makers. These policies are implemented by numerous senior and junior officers. These officers, alongwith the civil servants, are an integral part of the administration. By virtue of their position in the administration, they can make or mar the affairs of the state.

Types of Executive :

Democratic states usually have two forms of administration. One is the parliamentary or the cabinet form and the other is the non-parliamentary or presidentia form. The characteristics of both these forms have bee dealt with in the relevant chapter.

Functions and Powers of the Executive :

The following are the main functions of th executive :

(*a*) *Law and order*: The foremost function of th executive is :

(*i*) to maintain law and order in the country;

(*ii*) to make the people follow the laws of th state ; and

(*iii*) to punish those who break the law.

(*b*) *Defence* : The second important function of th administration is to protect the state against ex ternal aggression. For this purpose, it maintain permanent land, air and sea forces. It arrange necessary stores of war material.

(*c*) *Foreign Affairs* : Another function of the sta is to achieve a prominent place for the count in the comity of nations. It develops friend relations with other states of the world. deputes its ambassadors in other countries an invites ambassadors of foreign nations to its own country.

(*d*) *Legislation* : The executive has the power to convene meetings of legislature, to adjourn its meetings sine-die and to dissolve the legislature. In democratic countries, it is also one of the functions of the executive to guide the legislature. Usually, a law passed by the legislature cannot be enforced unless it has received the assent of the head of the state. In a state of emergency, the executive enjoys the power to promulgate emergent laws. This means that the administration also has a considerable say in legislation.

(*e*) *Financial Functions* : No government in the world can manage its affairs without money. It is its duty to arrange finances for running the administration of the country. The administration prepares all plans to levy taxes and to incur expenditure. This is called budgetting. The budget is passed by the legislature. After the budget has been passed, it is the duty of the administration to collect taxes from people and to spend on items approved by the legislature.

(*f*) *Judicial Functions* : The executive appoints Judges of the Courts. In certain cases, the administration has the power to accept mercy petition of a person who has been awarded punishment by a competent court of law.

ORGANIZATION OF EXECUTIVE

For the sake of convenience, the administration of a late is divided into different branches and each branch is alled a department. Usually, one or more departments re put under the charge of a minister who is held responible for efficient running of the department or departents placed under his control. In most countries, the following departments are established :

(*i*) Foreign Affairs.
(*ii*) Home Affairs.
(*iii*) Defence.
(*iv*) Finance.
(*v*) Communication.
(*vi*) Commerce.
(*vii*) Industry.
(*viii*) Education.
(*ix*) Public Health.
(*x*) Public Works.
(*xi*) Law and Parliamentary Affairs.
(*xii*) Social Welfare.

JUDICIARY

The function of the legislature is to make laws, that of the administration to enforce them and that of the judiciary to interpret laws. The judiciary puts injustice to an end and makes justice prevail. The judiciary settles disputes not only between individual citizens but also between government and citizens. In this way, the judiciary protects civil liberties. According to Laski, a famous political thinker, judiciary of a country is the measure by which moral condition of a state can be estimated.

Duties and Powers :

The main duties and powers of the judiciary are :

1. *To Decide Law-Suits :* The foremost duty of the judiciary is to decide law-suits in accordance with the laws of the country and to award appropriate punishment to a person proved guilty of an offence. In this way, it acts as the custodian of law. It is also the duty of the judiciary to protect the rights of citizens of the state.

2. *Interpretation of Law :* At the time of framing laws, the legislature tries to embody a particular intention in appropriate words. It is, however, not essential that it should always succeed in its effort to do so. Sometimes, the words do not convey the meaning intended by the legislature. It is possible that in the opinion of the

legislature a person may be guilty of contravening a law, but in terms of the words of the law, he may be innocent. It is, therefore, only the judiciary that decides the meanings of the language of law and determines whether or not a person is guilty of contravening that law.

3. *Law-Making :* To an extent, judiciary also has the powers to make laws. Sometimes, it so happens that the judiciary is faced with a law-suit in which the law of the land does not clearly guide the judiciary in pronouncing unequivocal judgement on it. The judiciary, therefore, pronounces its judgement keeping in view the principles of equity and justice. Such a decision of judiciary serves as precedent for the type of suits. Law of precedents thus also enjoys the status of law, to a certain extent.

4. *Supervision of Legislature and Executive :* In some countries, judiciary also enjoys powers of exercising supervision on the legislature and the executive. In those countries, the judiciary decides whether the legislature or the executive is exercising its powers within the prescribed limits or not. The United States of America is an example.

5. *Custodian of Constitution :* In federal form of government, the judiciary sees to it that the provincial and the federal governments function within the limits prescribed for them by the constitution of the state. In the event of a difference of opinion between them, the decision of judiciary is final. It is laid down in the Constitution of the United States of America that in the event of a difference of opinion between the legislature and the executive regarding the interpretation of any provision of the Constitution, the Judgement of Supreme Court in the matter shall be final.

6. *Legal Opinion :* In certain important matters of state, the judiciary also provides legal opinion to the legislature and the executive on their request.

ORGANIZATION OF JUDICIARY

The set up of the judiciary is like a tall minaret. At the lowest level, there are the small courts functioning in villages, towns and cities. At a higher level, there are courts located in respective district headquarters. Then there are the District Courts and the Sessions Courts. Next higher in status is the High Court and then the Supreme Court, which exercises full judicial control over the entire state.

In order to weed out injustice, it is essential that the judiciary should be protected against interference of those in power. In countries, where the judicial set up is bad or corrupt, there can be no law and order. Nor can that state look forward to progress. If the judiciary is capable of enforcing justice in an impartial manner, the inhabitants of that country can prosper.

EXERCISES

1. Define the term state. Also discuss the essential elements of a state.
2. What are the aims and objects of a state? Discuss, the Islamic viewpoint, as well.
3. Define democracy. What are the merits aud demerits of democracy?
4. What is meant by dictatorship? Discuss the merits and demerits of this form of government.
5. What is meant by a parliamentary form of government? Discuss the merits and demerits of this form of government.
6. What is meant by a presidential form of government? Account for the good and bad points of this form of government.

7. Draw a distinction between a federal form of government and a unitary form of government.

8. What are the various stages that a 'bill' has to generally pass through before it becomes a law ?

9. Discuss some of the important functions of executive in a democratic set up.

10. Discuss some of the important functions and powers of judiciary in a democratic set up.

Chapter V

Two-Nation Theory

Pakistan was established on the basis of Two-Nation Theory, which was the outcome of differences between Islam and Hinduism. Religion, customs, ways of worship and living, even names of the Muslims are different from those of the Hindus. Beginning of the Two-Nation Theory can, therefore, be traced to the very arrival of the Muslims in the sub-continent. It is, infact, a product of history and later developments in the area.

Muslims started coming to the sub-continent with the conquest of Sind by Muhammad bin Qasim. They dominated the Indian scene during the period of Mughal emperors. Many saints and sufis, including Ali Hajveri Data Ganj Bakhsh, Bayazid Bustami, Khawaja Mueen-ud-din Chishty, Sheikh Bahauddin Zakriya, Khawaja Bakhtiar Kaki, preached Islam. People of the sub-continent were impressed very much by the teachings of these saints and the exemplary life they led. As a result of this, lacs of Hindus were converted to Islam.

Muslim rulers of India treated their Indian subjects very kindly, as a result of which Muslim rule prospered. They were not only just, but also generous towards people of other religions. Sikhs, Christians and Muslims led a peaceful life during the reign of Muslim rulers. Inspite of this, Hindus regarded Muslims as their enemies and opposed them in every important matter.

The British came to the sub-continent in the seventeenth century. They pretended to carry on trade activities in the sub-continent. Actually, they wanted t occupy this land of promise. They captured power after becoming politically and economically strong. Both Muslims and Hindus fought against the British occupation of Indo-Pakistan sub-continent in the War of Independence in 1857, but could not liberate themselves from the yoke of the British. After the British had consolidated their position in the sub-continent, Hindus and the British joined hands to dominate the Muslims. The British held the Muslims exclusively responsible for the War of Independence. So, they turned against them. They confiscated their property and denied them opportunities of employment. They also denied them their religious rights. Hindus co-operated with the British in this campaign.

The British and the Hindus also turned against Urdu and Persian. Muslims and Hindus came into direct conflict with each other when the Hindus of Benares started in 1867 a movement to get Urdu replaced by Hindi as the language of courts. Sir Syed Ahmad Khan, in the beginning, firmly believed in Hindu-Muslim unity, but soon he realized that the two communities could not go together. Other Muslim leaders also realized that if Hindus could be so unjust in their treatment of comrades-in-struggle against foreign domination, they would not be prepared to concede any right to them after the achievement of independence. This realization obliged the Muslims to work to establish their separate identity in the eyes of both the Hindus and the British. This is what was later on called Two-Nation Theory.

Sir Syed Ahmad Khan and the Two-Nation Theory.

When Urdu was replaced by Hindi in some of the courts, the Muslims realized that without political awakening and progress in the field of education, they would continue to be suppressed. Sir Syed Ahmad Khan established a number of institutions for the uplift of Muslims. Main aim of these institutions was to unite the Muslims and to create national consciousness among them. These institutions succeeded in their aim to a large extent.

Sir Syed Ahmad Khan said, "There are two nations in India—Hindus and Muslims." In a letter to the British commissioner of Benares, he wrote, "Hindus and Muslims will never be able to co-operate with each other in the political field, because the gulf between the two is widening". Later events and circumstances proved this contention to be true. Sir Syed Ahmad was convinced that if the Muslims did not regard themselves as a separate nation, and did not work hard enough to establish this fact, Hindus would become natural successors to British power in the sub-continent.

Partition of Bengal.

Bengal was a very large province. It was well-nigh impossible for a Lieutenant-Governor to manage it. Administration of the province was going from bad to worse every day. The British •Government, therefore, divided Bengal into two provinces in 1905. Hindus were very unhappy with this division because Muslims were expected to draw some benefits from this administrative change. The Hindus started an organised movement in which they used all kinds of pressure tactics to threaten the British Government into submission, to get this division annulled.

The Muslims favoured the division, but the British Government, without caring either for the administrative advantages accruing from this division or the wishes of the Muslims, annulled the earlier orders and reunited the two provinces into one Bengal, in 1911. The way the division was reversed, it proved that the Hindus were not prepared to accommodate Muslims' view point at all.

Annulment of the division of Bengal not only harm-ed interests of the Muslims, but also made them realize the fact that the Indian National Congress was a communal organization wedded to the welfare of Hindus alone.

Simla Deputation :

A deputation representing Muslims of the sub-continent led by Sir Agha Khan met Lord Minto, the Viceroy of India, on October 1, 1906 in Simla. The deputation placed before the Viceroy, view-point of the Muslims and their problems, two of which were more important :

(*i*) Seats should be reserved for the Muslims in all institutions ranging from the local to the national.

(*ii*) Muslims should be given the importance, they deserve in the political sphere.

The Viceroy assured the deputation that political rights and interests of Muslims would be safeguarded.

Hostility of Hindus speeded up the process of Muslim political awakening in the sub-continent. The realization that Muslims should form a separate political organization gathered momentum and they established the All India Muslim League in December, 1906, to achieve the objectives listed below :

(*a*) to safeguard political rights, and to place before the government demands, needs and wishes of the Muslims of the sub-continent.

(*b*) to remove suspicions and misunderstandings between the British and the Muslims.

(*c*) to explore ways and means to strengthen friendly relations with other nations of the sub-continent without injuring the interests of Muslims and the Muslim League.

Formation of this party gave a practical shape to the Two Nation Theory.

The Government of India Act, 1909 which is also known as *Minto Morley Reforms* accepted the right of Muslims to separate electorate. The reforms accepted Muslims as a separate nation as also the desirability of reserving seats for them at the local and national levels. In this way, Minto-Morley Reforms added to the significance of Two Nation Theory.

The Two Nation Theory gained stability during the period 1916-1921. *Lucknow Pact* was signed in 1916, by virtue of which Muslims and Hindus forged a united front against the British. The two parties among other things, agreed on the following two points :

(*i*) Congress accepted the right of Muslims to separate electorate.

(*ii*) Principle of weightage was also agreed upon. It laid down that Muslims should be given more seats than their number demanded in provinces where they were in minority, and Hindus more seats in provinces where they were in minority.

This agreement was a major step forward in the direction of acceptance of the Two Nation Theory.

Khilafat Movement :

To win the co-operation of the Muslims of the sub-continent during World War I, the British promised Muslims that in the event of their victory in War, Turkish Caliphate would remain intact and no harm would be allowed to come to the holy places of the Muslims.

At the end of the War, the British went back on their promise and started dismembering the Turkish Caliphate. Muslims of the sub-continent reacted to it very sharply and started a movement, called the Khilafat Movement to protest against the treatment meted out to Turkey.

Basic objectives of the Movement were :

(*a*) Turkish Caliphate should remain intact.

(*b*) Holy places of Muslims should be protected.

(*c*) Boundaries of the Ottomon Empire should remain unchanged.

During those days, the Indian National Congress had also started *non-co-operation movement* against some decisions and policies of the British Government. As both these movements were directed against the British, the Hindus and the Muslims decided to co-operate with each other. But, this co-operation did not last long, as the two parties were following objectives of two different natures.

Khilafat Movement was at its height in the subcontinent, when Kamal Ataturk abolished Caliphate and declared the establishment of a republic in Turkey. Khilafat Movement also, therefore, faded out in the subcontinent.

When non-co-operation movement came to an end and Khilafat Movement was ebbing away, Hindu-Muslim differences surfaced again. Communal riots broke out in many cities, resulting in large scale killing of Muslims. Hindus formed many religious organizations with a view to eliminating separate political identity of Muslims.

Quaid-i-Azam Muhammad Ali Jinnah believed that the sub-continent could not make any progress in the political field unless communal differences were removed. He, therefore, continued his efforts to bring about Hindu-Muslim unity. He called a conference of the Muslim leaders in Delhi, in 1927 to prepare a plan of action. After a thorough discussion of the problems faced by the Muslims, the conference drafted a few proposals, which are called *Delhi Proposals*. More important of these proposals are :

(*i*) Sind should be separated from Bombay Province.

(*ii*) Reforms should be introduced in North West Frontier Province and Baluchistan.

(*iii*) Muslims should be given representation in Punjab and Bengal proportionate to their population.

(*iv*) One third of the total number of seats in the central legislature should be reserved for Muslims.

(*v*) No bill concerning a community should be passed by the legislature unless supported by three fourths of the members belonging to that community in that legislature.

The first reaction of the Congress to these proposals was favourable but afterwards they started opposing these proposals.

A commission known as *Simon Commission* led by Sir John Simon visited India in November, 1927, to persuade Indian leaders to frame agreed constitutional proposals instead of criticizing the government. The Congress, therefore, decided to call a conference of all the parties. Meetings of the All Parties Conference were held in Delhi in 1928 but it failed to arrive at an agreed solution to the problems. At this, a committee was appointed under the chairmanship of Pandit Moti Lal Nehru to prepare an agreed constitutional framework for the sub-continent. The report presented by the committee in 1928 was called *Nehru Report*. It rejected Delhi proposals and recommended the abolition of the system of separate electorate, which the Congress had accepted when it signed the Lucknow Pact in 1916.

Nehru Report was a clear indication of the Hindu mind. Quaid-i-Azam refused to accept the report and prepared a frame-work of guiding principles, called "Fourteen Points", representing the point of view of Muslims.

Fourteen Points of Quaid-i-Azam :

(*i*) Future constitution should be federal in character, providing for as much autonomy to provinces as possible.

(*ii*) This principle of autonomy should be applied to all the provinces.

(*iii*) Minorities should be adequately represented in provincial legislatures.

(*iv*) One third of the total number of seats in the central legislature should be reserved for Muslims.

(*v*) The principle of separate electorate should be applicable to all the communities, unless a community opted for joint electorate.

(*vi*) If boundaries of one or more provinces were required to be changed, it would be borne in mind that Muslims would remain in majority in Muslim-majority provinces.

(*vii*) Everyone should enjoy complete and equal religious freedom.

(*viii*) No bill concerning a community should be passed unless three fourths of the members belonging to the community voted for it.

(*ix*) Sind should be separated from the province of Bombay.

(*x*) Reforms should be introduced in the provinces of North West Frontier and Baluchistan.

(*xi*) Muslims should be given a share in the services according to their qualifications.

(*xii*) Muslim culture and religion should be adequately safeguarded.

(*xiii*) One third of the provincial and central ministers should be Muslims.

(*xiv*) No amendment should be made in the constitution of the country without the consent of the provinces.

PAKISTAN MOVEMENT

Allahabad Address—1930 : Annual meeting of the All India Muslim League was held at Allahabad in December, 1930. In his presidential address delivered at this meeting, Allama Iqbal explained the political philosophy of Islam and made it clear that the Muslims were completely different from other nations in every respect. He said, "I would like to see the Punjab, North West Frontier Province, Sind and Baluchistan amalgamated into a single State. Self-government within the British Empire or without the British Empire, the formation of a consolidated North West Indian Muslim State appears to me to be final destiny of the Muslims, at least of North West India'.

This address of Allama Iqbal served as beacon light for the Muslims and gave their struggle a new direction.

In those days, the British Government was considering a new constitutional frame-work for the sub-continent. *Three Round Table Conferences* were held in London between 1930-32 to consult leaders of the sub-continent in this matter. Leaders of all the major political parties and representatives of princely states participated in these conferences. Quaid-i-Azam and a few other Muslim leaders represented the Muslim League and demanded constitutional safeguards for the rights and interests of the Muslims. Since the major political parties of the sub-continent could not arrive at an agreed scheme of reforms, the British Government gave one of its own in the form of Government of India Act, 1935, which gave more powers to provinces in the sub-continent.

Government of India Act, 1935 : When three Round

Table Conferences failed to produce a result, the British Government prepared a draft of the constitutional proposals and issued a statement explaining these proposals. It was presented to the House as a Bill which was passed in 1935 as the Government of India Act, 1935. It contained the following more important provisions :

(*i*) The sub-continent would have federal form of government.

(*ii*) Provinces would enjoy autonomy.

(*iii*) Sind was separated from Bombay and given the status of a separate province.

(*iv*) One third of the total number of members of the central legislature were to be Muslims.

(*v*) System of separate electorates was to continue.

(*vi*) Governors of the provinces were given special powers to protect the rights of the minorities.

Congress Ministries : Elections to provincial legislatures were held under this Act in 1937. Congress won the elections in Hindu-majority provinces and formed governments in those provinces. These governments persecuted the Muslims. Elected members belonging to the Muslim League were not included in the cabinets. Equal rights were not given to the Muslims. Efforts were made to proclaim Hindi as the official language. The Congress regarded the interests of the Hindus more important than those of the Muslims in the fields of trade, culture and education. 'Bande Matram' was accepted as the national anthem, which injured the sentiments of the Muslims. Efforts were made to give curricula and syllabi a Hindu bias.

Behaviour of the Congress was anti-Muslim. So, the Muslims joined the Muslim League in large numbers. Muslim unity was manifested in Lucknow Session of the Muslim League in October, 1937. Soon, the Muslim League became a peoples' organization. It appointed a special committee to inquire into the conditions in which the Muslims lived in provinces ruled by the Congress. The committee in its report detailed the atrocities committed by the Congress ministries. When World War II started in 1939, Congress refused to co-operate with the British Government in their war effort. It was a move on the part of the Congress intended to achieve political ends. To put more pressure on the British Government, Congress ministries in the provinces tendered their resignation. Muslims heaved a sigh of relief and later celebrated the "*DAY OF DELIVERANCE*" on December 22, 1939.

Reorganization of Muslim League: Bitter experiences of Muslims during Congress governments had made them realize that the Congress was bent upon eliminating Muslim culture and their separate national identity. So, the Muslim leaders decided to chalk out an effective plan of action to unite the Muslims so that evil designs of the Congress could be defeated. The Quaid-i-Azam started his efforts to make the Muslim League more active as an organization. It was on account of the unrelenting struggle and leadership of the Quaid that within a few years, the Muslim League became an effective and powerful organization. Congress continued its efforts to attract Muslims to its fold, but achieved little success because the Muslims had acquired political consciousness and had understood evil designs of the Congress.

Pakistan Ideology :

Muslims of the Indo-Pakistan sub-continent regarded themselves as a separate nation, which had separate civilization and a philosophy of life of its own. They had their own culture, historical heritage, and separate identity, as a result of which two separate societies prospered in the sub-continent—Muslim Society and Hindu Society. Hindus persisted in their efforts to eliminate all traces of religious and cultural heritage of Muslims, but they failed.

Many suggestions and proposals were put forward from time to time for the division of the sub-continent before Pakistan Resolution was passed in 1940.

Jamaluddin Afghani wanted to unite Muslims of the world. Sir Syed Ahmad Khan, during the later part of his life, came to the conclusion that Muslims and Hindus were two different nations. Allama Iqbal presented the idea of a separate homeland for Muslims of the sub-continent in his address delivered at the annual session of the Muslim League in 1930. About the same time, Chaudhry Rehmat Ali suggested the name 'Pakistan'. Quaid-i-Azam affirmed that Muslims were not a minority, but a nation, and that all authentic definitions of the word "nation" would bear out the fact. He also said that India was not a country, nor could its inhabitants be a nation. He asserted that it was a sub-continent, inhabited by many nations more important of which were Muslims and Hindus.

Muslim political leaders made it clear to Hindus and the British that it would be impossible to solve political problems facing the sub-continent unless separate national identity of the Muslims was recognized and opportunities were provided to them to lead their lives according to their belief and principles.

Congress not only refused to accept separate national identity of the Muslims, but also adopted policies, which aimed at harming Muslim interests. When Muslims were finally convinced that the Congress was not interested in safe-guarding the religion, civilization and culture of the Muslims, and that they would not be able to preserve their separate national entity in a united India, they demanded a separate homeland, Pakistan, for themselves.

Pakistan Resolution :

The idea of a separate homeland for Muslims of the sub-continent was quite an old one, but the Muslim League put it up as a considered demand of the Muslims in 1940. This demand gave a new direction to the Muslim political struggle. Demand for the establishment of a federal system of government in the sub-continent was given up in favour of demand for a separate homeland. This demand was made in the annual session of the Muslim League held at Iqbal Park Lahore, in March 1940. The resolution passed on this occasion was called Lahore Resolution or Pakistan Resolution. This resolution demanded that an independent Muslim State comprising the Muslim majority areas in the North Western and Eastern zones of India be established.

The movement started by Muslim League gained momentum with the passage of this resolution. Demand for the establishment of Pakistan was becoming more and more popular. Congress was opposing it strongly and working tirelessly for the independence of a United India. The British Government sympathised with the Congress and did not support the establishment of a separate homeland for the Muslims.

Elections were held to the provincial and central legislatures in the winter of 1945-46. Muslim League won all the Muslim seats in the central legislature. Muslims also carried the provincial polls by an overwhelming majority. Results of the elections proved that Muslim League was the only representative body of the Muslims and that the Muslims supported the establishment of Pakistan.

A meeting of the central and provincial legislators belonging to the Muslim League was held in Delhi in April, 1946, which reiterated its resolve to make every sacrifice for the establishment of Pakistan. In addition to this, resolution was passed, which demanded the establishment of an independent state consisting of the provinces of Bengal and Assam in the east and Punjab. Sind,. Baluchistan and North West Frontier Province in the west, without further delay. Results of the elections had proved beyond doubt that the Muslims would not rest till the establishment of Pakistan.

June 3, 1947 Plan : On June 3, 1947 the Governor-General of India, Lord Mountbatten, declared that the British Government had decided to divide the sub-continent to establish Pakistan consisting of the Muslim majority areas in its North-Western and Eastern zones.

The main points of the plan are given below :

(*i*) A separate Constituent Assembly for Pakistan would be constituted consisting of the persons elected under the Cabinet Mission Plan for the Indian Constituent Assembly from the areas to be included in Pakistan.

(*ii*) The provincial legislative assemblies of Bengal and Punjab would decide whether or not these provinces should be partitioned. In case, their decision was in favour of partition, a boundary commission would be set up, which would determine the boundaries keeping in view contiguity of Muslim and non-Muslim majority areas and other factors.

(*iii*) A referendum would be held in Sylhet and NWFP.

(*iv*) The legislative assembly of Sind was asked to choose the existing constituent assembly or join the new one.

(*v*) Baluchistan was to decide its future through a joint session of its representative institutions.

On August 14, 1947, Pakistan came into being. Later on, Radcliffe announced the boundary award which was unrealistic and unjust. Muslim majority areas were to be included in Pakistan on the basis of contiguity, according to the June 3, 1947 plan, but the Boundary Commission did injustice in awarding some of these areas to Bharat.

Pakistan was the culmination of a relentless struggle waged by the Muslims of Indo-Pakistan sub-continent under the inspiring leadership of Quaid-i-Azam Muhammad Ali Jinnah.

EXERCISES

1. Write a comprehensive note on the concept of Two—Nation Theory.
2. Give the main points of the Simla Deputation of 1906.
3. When was All India Muslim League formed? Give its objectives.
4. What were the objectives of the Khilafat Movement?
5. Detail down the Fourteen Points of Quaid-i-Azam.
6. Write a note on the Ideology of Pakistan.
7. Give the main points of June 3, 1947 Plan.

Chapter VI

Constitutional Development in Pakistan

Pakistan came into existence on August 14, 1947. A Constituent Assembly was formed to frame a constitution for the country. The work of constitution-making proved to be quite difficult and at times became a major problem for the nation. It actually threatened the very integrity of the country. Before we discuss representative institutions in the country, it is imperative for us to understand *the problems facing Pakistan at the time of its establishment*.

Administrative Problems : Immediately after the establishment of Pakistan, the whole administrative structure had to be built from scratch. The number of Muslims holding high offices in the government was very small. A sizeable number of Muslim officers, who had opted to serve in Pakistan, did not possess enough experience of the work which had to be entrusted to them to meet the shortage of man-power. In addition, a large number of low-ranking officers had to be given accelerated promotions to man higher offices.

In the past, high-ranking civil officers considered themselves rulers of the country. So a change in attitude was necessary and they had to be taught that their primary duty now was to serve the people, not to rule them.

Problem of Refugees : Immediately after the establishment of Pakistan, the Muslims living in India found their lives and properties unsafe. So a large number of them started migrating to Pakistan. Their rehabilitation was not an easy problem to solve. In the initial phase of Pakistan's history, the problem was all the more complex. So, it proved an obstacle in the way of constitution-making in the initial stages to quite an extent.

Problem of Kashmir : Leaders of Bharat wanted the Muslim-majority State of Jammu and Kashmir to join Bharat. They started negotiations with the Dogra ruler of the State. They also sent some contingents of the army to occupy important places in the State. Pakistan could not remain a silent spectator of the drama being staged there. So it came out in favour of the right of self-determination for the people of the State. In the circumstances, the Government of Pakistan could not devote enough attention to the task of constitution-making.

Territorial Distance Between East & West Pakistan: Pakistan was the only country in the world which consisted of two parts separated from each other by a distance of about 1500 kilometres. In between the two wings of Pakistan was situated an hostile Bharat. The population of East Pakistan far exceeded that of West Pakistan, but in point of area, it constituted only one seventh of the entire area of Pakistan. People of East Pakistan and West Pakistan spoke two different languages. Although there were provincial languages in West Pakistan also, yet Urdu was understood everywhere in West Pakistan. As against this, the language of those living in East Pakistan was Bengali. By and large, the entire population of West Pakistan was Muslim, whereas in East Pakistan, there was an important minority which wielded great influence. They were the Hindus who had not whole-heartedly accepted the establishment of Pakistan. It, therefore, became a very difficult and complicated task for the central government to provide adequate representation at the centre to the two wings forming Pakistan.

Distribution of Powers Between the Central and Provincial Governments : At the constitution-making stage, the task of distribution of powers between the centre and the federating units of Pakistan was an important problem. All the leaders of the country supported the federal form of government but there were sharp differences among them on the exact nature of federation. One group of leaders wanted maximum autonomy for the provinces. They were not in favour of surrendering excessive powers to the centre. The second group wanted a strong centre and pleaded limited provincial autonomy.

Death of Quaid-i-Azam : Quaid-i-Azam passed away on September 11, 1948. After his death, matters became more complicated. However, he had left a good many instructions in the matter of constitution-making for those who were to come after him. Regarding political set up in Pakistan, he said "*Constitution of Pakistan shall be democratic based on the principles of Islam.*"

Quaid-i-Azam also expressed his views many a time regarding the economic frame-work of Pakistan. *He favoured an economic order which should benefit every citizen of Pakistan.*

Khawaja Nazim-ud-Din, who had been the Chief Minister of East Pakistan since 1947, succeeded Quaid-i-Azam as Governor-General. Quaid-i-Millat, Liaqat Ali Khan continued to be the Prime Minister of Pakistan.

In accordance with the Indian Independence Act of 1947, the central legislative assembly was split up in two parts. This assembly had been elected in 1946 by the provincial assemblies on the basis of separate electorate. The first constituent assembly consisted of those members who represented those regions which subsequently constituted Pakistan.

Objectives Resolution :

The first constituent assembly of Pakistan carried dual responsibility over its shoulders. According to the terms of the Independence Act, 1947, this body was required to perform two functions :

(*i*) to act as legislative assembly : and

(*ii*) to frame a constitution for Pakistan.

For this reason, its proceedings were separately published in relation to its two different capacities. The first positive step towards constitution-making was taken in March, 1949 when the Objectives Resolution was passed.

Immediately after passing the 'Objectives Resolution. the constituent assembly formed a committee known as the *Basic Principles Committee.* Quaid-i-Millat Liaqat Ali Khan presented before the constituent assembly *interim report* of this committee on September 28, 1950. It contained the following important proposals :

(*i*) The administrative powers shall vest in the President of the State who will exercise these powers in consultation with his cabinet.

(*ii*) The Prime-Minister shall be appointed by the head of the State and other cabinet ministers will be selected by him with the consent of the Prime Minister.

(*iii*) The federal legislature shall consist of two Houses. Members of the upper House shall be elected by members of provincial assemblies whereas the members of the lower House shall be elected directly by the people. Both the Houses shall have equal powers. The Houses may hold joint meetings in special circumstances.

(*iv*) The laws passed by the federal legislature shall be sent to the head of the State for receiving his assent. The head of the State shall either give his assent to these laws or refer them back to the legislature for reconsideration.

(*v*) The provincial legislatures shall be unicameral and elected for five years.

(*vi*) Executive head of the province shall be the Governor in whom shall vest all the administrative powers.

(*vii*) The legislative matters shall be divided into three parts :

  (*a*) subjects in regard to which the federal legislature shall have exclusive jurisdiction.

  (*b*) subjects in regard to which the provincial assembly shall have exclusive jurisdiction.

  (*c*) subjects in regard to which both the assemblies shall have concurrent jurisdiction.

(*viii*) The right to declare state of emergency in the country shall exclusively vest in the head of the State and he may, through an order, suspend the constitution or a part thereof.

(*ix*) The national language shall be Urdu.

These proposals were severely criticized by the people. According to them, they injured the feelings of the people who had pinned high hopes on the report. The Bengali expressed their resentment openly because according to them, rights of the majority province had been ignored. Besides, they expressed their deep concern on the declaration of Urdu as national language. The committee was, therefore, asked to find out a solution for these constitutional matters afresh.

On October 16, 1951, the Prime Minister of Pakistan, Mr. Liaqat Ali Khan was assassinated. Khawaja Nazim-ud-Din left the office of the Governor-General of Pakistan and became its Prime Minister. Malik Ghulam Muhammad became the Governor-General of Pakistan in place of Khawaja Nazim-ud-Din. Khawaja Nazim-ud-Din started his efforts for making the constitution, but he did not achieve much in this field. However, the second report of the Basic Principles Committee was presented before the constituent assembly by Khawaja Nazim-ud-Din in 1952. The salient points of this report are :

(*i*) The head of the State shall be a Muslim.

(*ii*) The Parliament shall consist of two Houses. In both the Houses, East and West Pakistan shall have equal representation. The provinces constituting West Pakistan shall be given representation on the basis of population.

(*iii*) The religious minorities shall have separate representation in both the federal and provincial legislature. The number of Hindu seats shall be 21 in the House of Representatives out of which twenty shall come from East Pakistan and one from Sind. The number of representatives of scheduled castes shall be twenty six out of which twenty four shall come from East Pakistan and two from Sind. Christians shall have three representatives (two from the Punjab and one from East Pakistan). Two representatives of the Budhists will come from East Pakistan. One representative of Parsis will be taken from Karachi.

(*iv*) The members of the House of Representatives as well as those of Provincial Assemblies shall be elected through secret ballot and all the citizens of Pakistan who have attained the age of twenty one or more shall have the right to vote.

(*v*) The cabinet shall be answerable to the legislature.

(*vi*) The head of the State shall constitute a Board consisting of five persons who are well versed in Islamic Jurisprudence and Islamic Law. This board shall give guidance in constitution-making. There will be a similar board in each province. If any member raises an objection to a particular bill being repugnant to any Islamic principle, this bill shall be referred to the Board. It shall be necessary to have a majority vote of both the Houses for passing such a bill.

(*vii*) The existing federal court shall be changed into the Supreme Court of Pakistan which shall consist of seven Judges who shall be appointed by the head of the State.

(*viii*) The problem of official language shall be entrusted to the constituent assembly.

Although under this plan, the principle of parity had been devised for representation of both the provinces, yet it lacked solidarity and co-ordination. This was also contrary to the principles of federation because it recommended equal powers for both the Houses.

This second report of Basic Principles Committee also came under heavy fire.

Removal of Khawaja Nazim-ud-Din :

Khawaja Nazim-ud Din was known as a gentleman; he was kind-hearted and religious. But he did not prove a good politician or a strong Prime Minister. His period is considered to be the period of economic crisis and political chaos. During his regime, Pakistan's exports suffered a great set back, with the result that the balance of payment was badly affected. The prices of wheat fell which was greatly exploited by the traders of the country to their own personal benefit. Large scale smuggling of food stuffs led to scarcity of these goods and in consequence, the prices of these goods started showing upward trend.

People had lost confidence in the Government of Khawaja Nazim-ud-Din because it had failed to take firm steps to check the deteriorating economic condition of the country. It had also failed to maintain law and order in the country. Governor General, Ghulam Muhammad called the Prime-Minister and asked him to resign. He refused to do so because according to him a constitutional head could not demand resignation of a Prime-Minister having all the real powers with him. The decision of the Governor-General was contrary to parliamentary traditions. It was also contrary to the very concept of the impartiality and non-partisanship of the office of the head of the State. Besides, the cabinet was answerable to the legislature and not to the President.

Dissolution of the Constituent Assembly :

The performance of the constituent assembly was not satisfactory. A number of its members were Governors and Chief Ministers of the Provinces. This had reduced this body to a branch of the government. The opposition was incapable of providing alternative leadership. Governments were formed and dismissed by the Governor-General and not by the legislature as demanded by the Constitution. The members of the Assembly did not show much enthusiasm in the proceedings of the Assembly. That was why the Assembly took only two weeks to pass the finance Bill. Law-making business was rushed through during the last few days of the session.

In these circumstances, the Governor-General dissolved the Constituent Assembly on October 24, 1954 and declared state of emergency in the country. This act of the Governor-General, Ghulam Muhammad was challenged in the Sind High Court by Maulvi Tameez-ud-Din Khan who was the Speaker of the Assembly. The High Court decided that the act of the Governor General in dissolving the Constituent Assembly was illegal. The Government filed a writ petition in the Supreme Court of Pakistan against the decision of the Sind High Court. The Supreme Court set aside the decision of the High Court saying that the act of Governor-General though a deviation from normal powers vested in him by law was warranted by special circumstances obtaining in the country. The Supreme Court justified this act of the Governor-General on many technical grounds. However, the Supreme Court ordered the administration to constitute an Assembly similar to the one which had been dissolved. This meant that the members of the central legislature were to be elected by members of the provincial legislature.

Establishment of One Unit for West Pakistan :

The question of giving proper representation to the various provinces constituting the Federation of Pakistan was a great obstacle in constitution-making. It was, therefore, thought that no constitutional frame work would be fruitful unless all the provinces of West Pakistan were merged to form One Unit. One Unit in West Pakistan came into existence in 1955 It was the result of principle of parity between East and West Pakistan.

Constitution of 1956 :

The Constitution Bill was introduced in the Assembly in January, 1956 which was passed on February 29, 1956, after discussion and necessary amendments. This Constitution came into force on March 23, 1956. This Constitution consisted of 234 articles and six schedules. It was based upon democratic and parliamentary traditions. This Constitution declared Pakistan an Islamic State. In the preamble to the Constitution, the sovereignty of God was accepted. The Constitution ended with the declaration that the Constitution was in conformity with the principles of Islam and that it was parliamentary and democratic in nature. The Constitution contained a list of Fundamental Rights and the judiciary was empowered to protect these rights. In fact, it was the foremost duty of the judiciary to protect political, social and civil rights of the citizens. However, these rights could be suspended during state of emergency.

According to the Constitution, the task of legislation had been divided into three parts. In other words, the Constitution had three separate lists—federal list, provincial list and concurrent list. The federal and provincial legislatures had been empowered to legislate on subjects contained in the concurrent list. In case of conflict, however, the federal legislation was to enjoy precedence over the provincial legislation. The 1956 Constitution provided for unicameral legislature.

The office of the Governor-General was changed into that of the elected President, who was to be a Muslim. His term of office was to be five years. The election of the President rested with an electoral body which consisted of the members of the federal and provincial legislatures. The President had the power to select any member of the federal legislature as Prime Minister of the country. However, the President could not remove the Prime Minister. The Prime Minister could only be removed if he had lost the confidence of majority of the members of the National Assembly. The cabinet was jointly responsible to the National Assembly. The Prime Minister was required to keep the President informed of the decisions of the cabinet. It was also necessary to keep the President informed about the legislative work. Although this Constitution gave unlimited powers to the President in certain matters such as declaration of state of emergency and supervision of the Constitution, yet it was expected of the President to exercise his powers as a mere constitutional head.

The President could convene and adjourn meetings of the National Assembly. If the National Assembly was not in session at the time the President selected a person as Prime Minister, it was necessary for the President to convene the meeting of the National Assembly within two weeks of the selection of the Prime Minister. If the Assembly passed a bill presented by the cabinet or approved its policies, it was to be taken to mean that the administration enjoyed the confidence of the Assembly.

Iskandar Mirza was elected first President of the Islamic Republic of Pakistan. People did not like this election because Iskandar Mirza was known for his anti-democratic views. Anyhow, it was commonly believed that general elections would solve most of the problems of the country. But the elections were not held. The delay was caused perhaps because the method of election had yet to be determined by the Assembly. At last, Prime Minister Suhrawardy presented the Electoral Amendment Bill before the National Assembly on April 22, 1957. This Bill provided for joint electorates for both wings of the country.

In the meantime, economic condition of the country was going from bad to worse. Smuggling between Pakistan and Bharat was at its highest. Some very influential persons including ministers were said to be involved in this dirty business. Inflation was at its peak. Foreign exchange resources reached the lowest ebb. Political bargaining for personal profit became the order of the day. These conditions brought a bad name to the representative government. The Army took over power in October, 1958.

Causes of the Failure of 1956 Constitution: The type of government that had come into existence through 1956 Constitution, was very much similar to the British parliamentary system.

British parliamentary system was the result of centuries of constitutional development in Britain and it suited the genius of the people. Parliamentary traditions had not been in vogue in Pakistan for a sufficiently long peried of time. All the popular politicians of Pakistan had started their political career after independence in 1947. Before independence, it was commonly believed by the Muslims that the democratic parliamentary system did not suit the sub-continent. It was so because the Muslims were in minority and the Hindus enjoyed overwhelming majority over them. The Muslims were not in a position to safeguard their rights under the parliamentary system of government. It was on this account that instead of constitutional methods, the Muslims had to resort to '*Direct Action*' for the establishment of Pakistan. Most of the politicians did not give up this method even after the establishment of Pakistan.

The performance of democratic institutions, to a greater extent, depends upon the positive role of political parties in a country. Political parties impart political training to the people. They have their roots among the people. Unfortunately, the formation and organisation of political parties in Pakistan was not done according to the recognized democratic traditions. Here, political parties revolved around personalities. Some parties were formed on regional basis. None of them had any ideological programme. Under the 1956 Constitution, there was no bar over change of party affiliations on the part of members.

Most of the people had participated in the struggle for independence purely from national view point, but there were some who had jumped in simply to gain financial benefit. After independence another class came into existence which consisted of big land-lords and industrialists. Their primary aim was to safeguard their personal and class interests. They preferred their personal interests to national interests. These persons changed party loyalties every now and then to achieve their own ends. They worked against each other to capture power, although they did not differ much from one another on principles.

An awareness of democratic traditions among the people of a country is a must for the success of political democracy. This was non-existent in Pakistan although the principle of adult franchise had been adopted in Pakistan since its very establishment. The failure of democracy in Pakistan was mainly due to the fact that percentage of literacy in the country was very low and no steps were taken to encourage adult education. Moreover, the politics of vested interest had completely ruined the economy of the country. Political bribery was rampant in the country. The gulf between the rich and the poor was widening on account of the worst type of capitalistic order prevalent in the country. Old feudal system continued to flourish. No attempt was ever made to put the economy of the country on an even keel.

Presidential Order October 7, 1958 :

Immediately after the promulgation of the Constitution of 1956, all political parties in the country started working against each other for capturing power in the country. Changes started taking place in central and provincial governments every now and then. General elections continued to be postponed. Corruption was rampant. Economic condition of the people was going from bad to worse. Overall situation in the country was threatenting the very existence of Pakistan.

The President of Pakistan issued an order on October 7, 1958, by virtue of which :

(*i*) Constitution of 1956 was abrogated ;

(*ii*) Central and Provincial Governments were dismissed ;

(*iii*) National and Provincial Assemblies were dissolved ;

(*iv*) All political parties were banned ; and

(*v*) Martial Law was imposed throughout the country and General Muhammad Ayub Khan, the then Commander-in-Chief of Pakistan Army, was appointed Chief Martial Law Administrator.

Twenty days after the issuance of this Order i.e., on October 27, 1958, General Ayub Khan took over as President of Pakistan, also.

Continuance of Laws Order, 1958 :

President of Pakistan issued an order called Continuance of Laws Order, 1958, to fill the vacuum created by the Order issued on October 7, 1958 in the governance of the country.

Among other things the Order stipulated :

(*a*) Notwithstanding abrogation of the Constitution of 1956, Government shall, as far as possible, be run according to this Constitution, under order of the President or regulations framed by the Chief Martial Law Administrator.

(*b*) All Courts, which existed before the issuance of this Order, shall continue to function and enjoy powers as heretofore subject to the conditions laid down in this Order.

(*c*) Courts in Pakistan shall abide by the laws accepted by the Supreme Court of Pakistan.

So, the government of the country was carried on under Presidential Order issued on October 7, 1958 and the Continuance of Laws Order, 1958.

Constitution of Pakistan—1962 :

Immediately after October 7, 1958, General Muhammad Ayub Khan, Chief Martial Law Administrator, had declared his intention to restore democracy which according to him the people of Pakistan could understand and work. So, the system of Basic Democracies was introduced in the country in 1959. O

February 14, 1960 elected Chairmen of the Basic Democracies expressed confidence in the President and empowered him to frame a Constitution for the country.

A Commission to frame Constitution was set up on February 17, 1960. This Commission submitted its report on May 6, 1961. After consideration of this report, a Constitution was framed which is called Constitution of Pakistan, 1962.

This Constitution provided for presidential form of government. Under this Constitution, the President enjoyed dictatorial powers. Powers of the National Assembly were restricted. President appointed and dismissed Ministers. He also enjoyed the power to dissolve the National Assembly.

President Ayub Khan took oath of office under the new Constitution and lifted Martial Law. Thereafter, members of Basic Democracies elected Members of National and Provincial Assemblies. In this way, democracy was restored side by side with the promulgation of the Constitution. Restrictions on political parties were also removed.

Constitution of 1962 was federal in character. Powers had been distributed between the Federation and the Provinces. As against the Constitution of 1956, the Constitution of 1962 enlisted only the powers of the federation, in regard to which the federal government could frame laws. Residual powers were entrusted to the Provinces. Federal government enjoyed superiority over provincial governments in regard to law-making as well as administrative affairs. In the event of a threat to the security of the country, from external or internal forces or in the event of economic crisis, the federation had the power to legislate even on matters entrusted to the provinces. National Assembly was also competent to frame laws for Dhaka (now in Bangla Desh) and

Islamabad, and those areas of Pakistan which were not then under the jurisdiction of provinces. These areas included tribal areas, also. Pakistan was perhaps the only federation in the world, which had a unicameral legislature.

President : Under the Constitution of 1962, President was head of the State. He was elected by members of basic democracies. National Assembly had the power to remove him, if two thirds of the Members of the Assembly voted for it. The President appointed Governors of the Provinces, Judges of the Supreme Court, High Courts of the Provinces, Ambassadors, Federal Ministers and Members and Chairman of the Central or Federal Public Service Commission.

President was responsible for all administrative affairs of the State. The President could declare state of emergency in the country, if he thought the circumstances warranted such a step. In addition to this, he could take all the steps he deemed necessary in the interest of the security and integrity of the country. Such action of the President could not be challenged in any court of law. Even the National Assembly could not question orders issued by the President during the state of emergency. It would be pertinent to point out here that the President could issue orders concerning only those matters which came under the purview of the National Assembly.

The facts stated above clearly prove that during state of emergency, the President acquired dictatorial powers, particularly because the Constitution did not lay down any limit to the period for which the President could declare a state of emergency. The President could therefore, rule the country through orders issued under his own authority for any length of time. At the end of the state of emergency, the National Assembly could refuse to confirm the orders issued by the President, th rendering them null and void. However, if the National Assembly confirmed these orders, they were considered to have been passed by the Legislature.

National Assembly : The legislature was unicameral, called the National Assembly. It consisted of 156 members drawn equally from (former) East and West Pakistan. Unless dissolved earlier, it performed its functions for five years. Members of the National Assembly were elected by members of the basic democracies. President had the power to call a meeting of the National Assembly and prorogue it. However, the Speaker could also call a meeting of the National Assembly if requested by one third of the members. If the President was unable to perform his duties on account of absence abroad or illness, etc., the Speaker acted as the President.

Every bill passed by the National Assembly required assent of the President. However, a bill once refused assent by the President could become a law if passed again by 2/3 of the Members of the Assembly. In the event of difference of opinion between the President and the National Assembly, the bill had to be referred to members of the basic democracies for opinion.

Parliamentary secretaries were appointed to help the Ministers. Parliamentary secretaries had to be Members of the Assembly. They, therefore, served as a link between the executive and the legislature.

Federal Ministers attended meetings of the National Assembly and replied to the questions of the Members of the Assembly. In addition to this, they apprised the Members of the Assembly of the various plans and schemes of the Government. Members of the National and Provincial Assemblies had to resign their seats as soon as they were appointed ministers in the national or provincial cabinets.

Powers of the National Assembly :

Under the Constitution of 1962, National Assembly was not an entirely powerless body. It could exercise its power against the President because it was elected by the same electoral college. Moreover, the Assembly had the power to impeach the President. Members of the National Assembly could ask questions from the Ministers and parliamentary secretaries. If the Members were not satisfied, they could ask supplementary questions. The Assembly could establish its superiority by rejecting a bill presented by the Cabinet. Members could move privilege motions against the actions of the Ministers. But as the President had the power to dismiss the Assembly, he could threaten the Members into submission. In such a situation, however, the President also could not retain his office, as it was obligatory for him to seek confidence of the members of the basic democracies within 120 days of the dissolution of the Assembly. Assembly had the power to frame laws and to amend the Constitution.

Electoral College : The President, Members of the National and Provincial Assemblies were elected through an electoral college consisting of members of the basic democracies. Being small in number, they could be easily bought. So they could not be regarded as free agents. It is always so easy to buy off or influence a few hundred or a few thousand voters instead of lacs of them. This system could not, therefore, be called a truly representative one.

Fundamental Rights : People enjoyed fundamental rights under this Constitution. National Assembly could not frame any law which went against these rights. The executive also took care not to take decisions which affected these rights, because people enjoyed the right to approach courts of law in such a situation. They could not, however, go to a court of law in case the Constitution had been suspended.

Causes of Failure of Constitution of 1962 : The Con- itution of 1962 did not contain any system of checks nd balances. All powers were vested in the Central overnment. In a way, it was a step in the right direc- on because in a developing country all important deci- ons had to be taken by the government, so that they ould be implemented in the shortest possible time. rom the point of view of politics, however, it was ecessary that the government should enjoy the confi- ence of the people. This could be possible only if the overnment kept them informed of its plans and pro- ammes, otherwise, the gulf between the government d the people would keep widening. This was the big- st cause of the failure of the Constitution of 1962.

The President enjoyed supremacy over law-making stitutions. He depended mostly on high-ranking civil ficers because they were responsible for making all the ns and implementing them. The President depended them even for celebrating the decade of reforms and gress, which aimed at assuring the people that their ial, economic and political problems had been solved that the country had been put on the road to pro- ss and development. But all this had been achieved paper only by the high ranking civil officers. Only hort while after these celebrations, demonstrations ted against the government on a large scale.

The principle of separation of powers, which is sine -non of presidential form of government, had been pletely ignored. The process of impeachment of President was so complex that it was almost impos- e to remove him through constitutional means. That's the people had to launch a movement against him 968. All the characteristics of presidential and par- entary forms of government, which give more powers the President, had been in-corporated in this Consti- on, while the checks provided in both these forms nst the government had been ignored. As a result, the President reigned supreme over both the executi and the legislature.

President and Members of the National Assemb were elected through an electoral college. In this wa the people could not exercise their right of adult fra chise. They wanted more say in the affairs of t government because they believed that the central a provincial legislatures did not enjoy real power. T people, therefore, opposed this system of indire elections.

In the end even President Ayub Khan, the creat of Constitution of 1962, lost confidence in the Constit tion. When he decided to relinquish his office on Mar 25, 1969, he handed over reigns of government to Co mander-in-Chief of the Army instead of the Speaker the Assembly. With the resignation of Ayub Khan, Constitution died a natural death.

General Elections of 1970 :

On account of the resentment against the Consti tion of 1962 and the dictatorial policies of Ayub Kh conditions in the country became very bad during last few months of 1968 and the beginning of 19 Public opinion turned against him. He had to res under this pressure. This was not the end of the sto Constitution was abrogated. Martial Law was impos General Yahya Khan the then C-in-C took over government. He promised to hold free and fair e tions in the country. To solve constitutional and p tical problems, he presented a constitutional form called Legal Framework Order (LFO). Future Co tution of the country had to be framed in the ligh these proposals. Main points of this Order are g below :

1. Pakistan will have federal form of governm It will be called Islamic Republic of Pakis

Provinces and territories now included in Pakistan and those which would form part of it later on shall be so included in the federation that strengthens independence, integrity and national unity of the country. Unity of the federation will not be allowed to be weakened in any case.

2. (*i*) Islamic ideology, which is the basis of Pakistan, shall be safeguarded ;

   (*ii*) Head of the State shall be a Muslim.

3. (*i*) Basic principles of democracy shall be guaranteed. General elections shall be held on the basis of adult franchise.

   (*ii*) Fundamental rights of the citizens shall be safeguarded.

4. Executive, legislative and financial powers shall be so distributed between the centre and the federating units that the provinces enjoy maximum autonomy, leaving enough powers for the centre to deal with internal and external matters and to safeguard the territorial integrity of Pakistan.

5. The Constitution shall guarantee that :

   (*i*) People belonging to all areas are enabled to participate in the affairs of the State ;

   (*ii*) Economic and other differences between different provinces and areas are removed within a given period of time through constitutional and other means.

National Assembly shall have to frame the Consti-
ion within 120 days of its first session ; otherwise it
ll be deemed to have been dissolved. After its appro-
by the Assembly, the draft shall be sent to the

President for his assent, who will have the power to accept or reject the draft. In the event of the draft being rejected by the President, the Assembly shall be deemed to have been dissolved. Legal Framework Order provided for continuance of Martial Law till power was transferred to the people's representatives.

General elections were held on the basis of adult franchise in December, 1970. All political parties took active part in the elections. Awami League achieved overwhelming success in East Pakistan while Pakista Peoples Party emerged as majority party in West Pakistan. Political negotiations were still continuing between the two parties when some miscreants starte creating law and order problem in East Pakistan at th behest of Bharat. Government of Pakistan took necessary steps to control the situation. Indian Army move into East Pakistan in November, 1971. By the middle December 1971, East Pakistan had been separated fro West Pakistan.

Yahya Khan transferred power to the Chairm Pakistan Peoples Party on December 20, 1971. First meeting of the National Assembly was held on April 14, 19 An interim Constitution was approved by the Natio Assembly and martial law was lifted on April 21, 1972.

The National Assembly constituted a committee April 17, 1972, to prepare a draft of the permanent Constitution. This Committee prepared draft of the Constitution of 1973 after thorough deliberations.

This draft was presented to the National Assem in February 1973. The draft was thoroughly discuss At last an understanding was reached between government and opposition members and the draft approved unanimously. The President gave his ass to the bill on April 12, 1973. It was promulgated Constitution of the Islamic Republic of Pakistan, on August 14, 1973.

EXERCISES

1. Write a comprehensive note on the initial difficulties in the process of constitution-making in Pakistan.
2. When was the Objectives Resolution passed ? Give the important points of the Interim Report of the Basic Principles Committee.
3. When was the Second Report of the Basic Principles Committee presented in the House ? Give the important points of this Report.
4. What were the main points of the Constitution of 1956 ? Why it failed ?
5. Give the salient features of the Constitution of 1962.
6. Give the important points of the Legal Frame-work Order (LFO).

Chapter

Constitution of Pakistan 197

Constitution of Pakistan, 1973, shall apply to follo ing territories :

(*a*) Provinces of Baluchistan, North-West Frontie Punjab and Sind.

(*b*) Federal area of Islamabad.

(*c*) Tribal areas under the Central Government.

(*d*) Other areas, which now form part or may future form part of Pakistan.

Main Features of the Constitution :

Main features of the Constitution of Pakistan 19 are given below :

1. *Islamic Constitution* : Islam shall be the offic religion of the State. No law shall be framed, wh goes against the teachings of Islam. Also, laws in fo at present shall be so revised as to conform to the tea ings of Islam. To achieve this aim, Islamic Ideolog Council shall be constituted, which shall guide not o the Government but also the Parliament and the Pro cial Legislatures. This Council shall also advise President, the Parliament and the Provincial legislatu as to whether or not a bill conforms to the Isla Principles.

Constitution makes it incumbent on the governm to make every endeavour to make the teaching of Holy Quran and Islamiat compulsory and to ma rangements for printing of the Holy Quran free of rors.

President of the country shall be a Muslim, so that d of the State subscribes to the religion which is the cial religion of the State.

2. *Democracy :* Pakistan shall be a democratic te, called Islamic Republic of Pakistan.

In a democratic set up, the power to rule the country ongs to the people. So, the system of government olves round the will of the people and all the resour- s and energies of the State are utilized to fulfil the hes of the people.

3. *Republic :* The State shall be a republic. Head the State shall be elected indirectly through an elec- al college for a given period of time.

4. *Federal Constitution* : The Constitution of kistan is federal in character. It has been pointed t earlier that the basic principle of a federation is the tribution of powers between the centre and the pro- ces. As Pakistan comprises a number of provinces, Constitution is based on the principles governing a eration.

In Schedule 4 of the Constitution, powers of the tre and the provinces have been clearly defined. It also been clearly stated that if any clause of a bill sed by a provincial legislature comes into conflict h a bill passed by the Parliament, provided that the liament has the power to frame the law, the law pass- by the Parliament shall have over-riding power.

Another basic principle of a federal form of govern- nt is that its legislature is bicameral. So the Parlia- nt, according to the Constitution comprises two ses, the Senate and the National Assembly.

5. *Rigid Constitution :* The Constitution of a

country reflects the aspirations of the people and is t guardian of the rights of the people. It should no therefore, be so flexible as to enable irresponsible perso to make it a play-thing in their hands. In our countr it is all the more necessary that the Constitution shou be some-what rigid because democratic traditions ha not taken roots firmly.

The Constitution of 1973, can be amended only two thirds of the members of the National Assem vote for the amendment, provided also that majority the Senate supports it.

6. *Written Constitution*: Written Constitution regarded essential for federal states, so that powers the centre and the provinces and powers and obligatio of the three basic institutions of the government are clea defined. The Constitution of 1973 fulfils all these co ditions.

7. *Parliamentary System*: The Constitution 1973 provides for parliamentary form of government Pakistan. Head of the Government shall be the Pri Minister, who will be leader of the majority party in t National Assembly. The Prime Minister shall be ele ed by majority of members of the National Assembly.

Parliament shall be the supreme law-making bo in the country, consisting of National Assembly and Senate. The National Assembly shall have two hund general seats and the Senate sixty three.

The Prime Minister and his cabinet shall be resp sible to the National Assembly so that the executiv subordinated to the legislature, which is the soul parliamentary system. The President shall be const tional head of the State, enjoying very limited powers.

8. *Direct Elections*: System of direct electi has been adopted in the Constitution. Members of

ational and Provincial Assemblies shall be elected
rough direct vote of the people. According to the
onstitution, all citizens above eighteen shall have the
ght to vote after the first general elections. Meanwhile,
e age-limit shall be twenty one.

9. *Fundamental Rights* : No society can claim to
free if its citizens do not enjoy fundamental rights.
eeping this in view, fundamental rights have been dealt
ith at length in the 1973 Constitution of Pakistan. It
s also been laid down that all laws, which go against
ndamental rights of the citizens, shall be regarded as
ll and void. Also, fundamental rights cannot be sus-
nded except through constitutional means.

10. *Principles of Policy :* Principles of policy guide
e people as well as the government. The principles
ve been discussed in detail in the Constitution. The
nstitution has made it obligatory on the government
take all possible measures to meet the basic needs of
e people like food, housing, medical facilities, clothing
, and remove economic disparity among various
sses of people in as short a time as possible.

11. *Independent Judiciary :* Independent judiciary
ecessary for the liberty of a nation. Judiciary is the
itution which safe-guards the fundamental rights of
citizens and restrains the executive from crossing
stitutional limits.

System and powers of the judiciary have been clearly
ined in the Constitution of 1973. Judges have been
ranteed all safeguards necessary for their indepen-
ce.

12. *Treason.* Abrogation of Constitution through
of force or illegal means has been termed as high
ason in the Constitution. The main object of the
use is to protect the country from future political
is and to put a stop to the fast developing trend in

the country to abrogate the Constitution. Parliamen has been empowered to decide the penalty for such heinous crime.

13. *Equal Rights*: According to the Constitutio of 1973, women have been given equal rights with me and disabilities in regard to their appointment to hig civil offices have been removed.

14. *National Language*: Urdu enjoys the statu of national language under clause 251 of the Constitu tion. It has been made obligatory on the governme to take necessary steps to make Urdu official langua of the country. At the same time, Provincial Assembli have also been empowered to frame laws for the develop ment of provincial languages side by side with Urdu, they so desire.

How to amend the Constitution :

The method to amend the Constitution has al been laid down in the Constitution of Pakistan, 197 A constitutional amendment bill has to pass through t following stages :

1. A constitutional amendment bill shall be initi ted in the National Assembly. If two thirds the members of the Assembly support the bi it shall be referred to the Senate.

2. If the bill is passed by majority of the tot number of members of the Senate, it shall sent to the President for his assent.

3. If the Senate approves the bill with some amen ments, it shall be referred back to the Natio Assembly for reconsideration. If the bill again supported by two thirds of the memb of the Assembly, it shall be sent to the Presid for his assent.

4. If the Senate does not approve the bill within ninety days of its receipt by the Senate, it shall be deemed to have been rejected by the Senate.
5. The President shall give his assent to the bill within seven days of its receipt by the President. If the President does not do so, the bill shall be deemed to have received his assent at the expiry of these seven days.
6. When the President has given his assent or is deemed to have given his assent to a constitutional amendment bill, it shall form part of the Constitution.
7. The National Assembly shall not pass a bill, which makes any change in the boundaries of a province, unless Legislative Assembly of that Province has already approved such a change through a resolution by two third majority of its members.

Pakistan is a federal State. Two kinds of govern- nts function simultaneously in such a state, federal vernment and provincial governments. Every govern- nt performs its duties and exercises its powers within e limits imposed by the Constitution.

As already stated, every government has three basic partments :

1. Legislature, which frames laws
2. Executive, which enforces laws
3. Judiciary, which interprets laws

We shall now deal with the three departments of e Central Government.

deral Legislature or Parliament

Parliament comprises two Houses called National ssembly and Senate.

A candidate for membership of the Parliament shal have the following *qualifications* :

(*a*) He should be a citizen of Pakistan,

(*b*) He should not be below twenty five years fo membership of the National Assembly and thirt years for the Senate.

(*c*) His name should appear as a voter in th electoral list.

There are certain *disabilities* which disqualify a citizen from becoming a member of the Parliament :

(*i*) He should be suffering from a mental diseas which fact should be confirmed by a competen court.

(*ii*) He should have been declared bankrupt.

(*iii*) He should cease to be a citizen of Pakistan.

(*iv*) He should be a paid government servant.

(*v*) He should have been declared ineligible unde a law passed by the Parliament.

Two hundred members elected freely by direct vot shall form the **National Assembly**. In addition to these seats are reserved for women and minorities.

Any citizen who has attained the age of 18 enjoy the right to vote. But, for any by-election before th next general elections, the age limit was to be 21.

The National Assembly shall enjoy a term of fiv years unless dissolved earlier. The term shall star from the first session of the Assembly. It shall cease t exist after the expiry of five years.

After general elections, the Assembly shall elect i its very first session the Speaker and the Deputy Speaker from amongst its members. As soon as any one of th ffices falls vacant, the Assembly shall elect another ember to hold this office. The Speaker shall preside ver the Assembly and maintain law and order in the ouse. No member shall occupy the floor without his ermission.

The Speaker shall have the power to decide whether bill is financial in nature or not.

The Speaker shall draw a stipulated amount of oney as salary. He shall be entitled to free furnished ccommodation and transport.

The second House of Parliament shall be called *the enate*, consisting of 63 members :

(*i*) Every provincial legislature shall elect 14 members each for the Senate, totalling 56 members from the four provinces.

(*ii*) Five members of Senate shall be elected by members of the National Assembly belonging to the centrally administered tribal areas.

(*iii*) Two members of Senate shall be elected from the federal capital. Method of their election shall be determined by the President of Pakistan.

Members of the Senate shall enjoy a term of four years. Half the number of total members of the Senate shall retire every two years, provided that three members from the centrally administered tribal areas shall retire after the first two years and the remaining two after completing their term of four years.

The Senate shall elect its Chairman and Deputy Chairman in its first meeting. They shall hold office for two years.

Powers and Duties of Parliament :

1. *Law-Making*. The most important duty of the

Parliament is to frame laws for the country. Parliament enjoys complete control over all subjects included in the federal list for the purpose of making laws. As has already been mentioned, the federal list is divided into two parts. If a bill relates to Part One, it shall be presented before the Senate. Bills relating to subjects included in Part Two of the federal list could be introduced in either of the two House. After approval by both the Houses, one after the other, the bill shall be sent to the President for his assent.

Provincial Assemblies can request the Parliament through a resolution to frame a certain law. In such circumstances, the Parliament can pass a legislation on any subject and the Provincial Assemblies have the power to mould it in any form according to their needs.

In the event of a declaration of state of emergency in a province by the Federal Government, the Parliament shall have the power to frame law for that particular province. However, the laws made by the Parliament during the period of state of emergency shall automatically lapse six months after the emergency is lifted.

Parliament has the power to confirm the state of emergency declared by the President.

2. *Financial Powers.* According to the Constitution, no taxes shall be levied and no expenditure incurred without the approval of the Parliament.

Like all federal democratic states, control over finances in Pakistan shall be exercised by the Lower House *i.e.* the National Assembly. According to the Constitution all bills relating to financial matters shall be introduced only in the National Assembly.

3. *Control over the Executive.* In addition to law-making and financial powers, an important duty of the Parliament is to keep watch over the actions of the

ecutive. The Prime Minister and his cabinet shall be sponsible to the Parliament.

The following ways are generally adopted in demo- atic countries to exercise such control over the ecutive :

(*i*) *Questions*. Members of the regislature have the right to ask questions in the House and the Minister concerned has to satisfy members about the working of his department.

(*ii*) *Adjournment Motions*. Members of the legislature enjoy the privilege to bring to the notice of the House events of public interest, occuring a few days before or during the session, through an adjournment motion. This affords the members an opportunity to discuss policies of the government.

Permission of the Speaker is needed to move an djournment motion.

pproval of Bills

A bill always relates to one department of the overnment or the other. In the Constitution of 1973, epartments have been divided into two lists. Some are cluded in Part One of the list. They include defence, oreign affairs and post and telegraph departments, hich deal with the whole country.

Part Two of the federal list includes such depart- ents as concern both the federal and provincial govern- ents *e.g.* railways, oil, gas WAPDA, PIDC, etc.

In addition to these, there is a separate list of epartments, called concurrent list. These departments eal mainly with provincial subjects.

Most of the departments have been included in the ederal list or list of related departments. But, there are subjects which are included in neither of the lists. They constitute what is called 'residual subjects, and are dealt with exclusively by provincial governments. This is called the principle of residual powers, which is one of the basic principles of federal form of government.

Annual Budget can be presented only in the National Assembly. Not a penny shall be spent unless it is sanctioned by the Assembly and assented to by the President. However, there are certain expenses, without which the government cannot function. If these are not approved in time, the whole system of government might collapse. Therefore, the National Assembly shall not have the power to vote on such expenses. Annual budget relating to other expenses, however, shall be presented to the National Assembly, which shall have the power to approve or reject it.

As a matter of principle, drafts of new laws or bills should, in the first instance, be presented to the Parliament. But sometimes certain situations in the country may demand immediate promulgation of some laws. If the Assembly is not in session, the President, in exercise of his special powers, can issue these bills in the form of *ordinances*. These ordinances shall be placed before the Parliament as soon as possible. If the Parliament refuses to approve them, they shall cease to be operative after their scheduled time.

Central Executive

Federal Government shall exercise executive powers of the federation in the name of the President, who shall be only constitutional head of the government. Prime Minister shall be chief executive of the federation.

President shall be head of the Islamic Republic of Pakistan, who shall be the symbol of the unity of the Republic.

A candidate for the office of President shall have the following *qualifications* :

(*i*) He should be a Muslim.

(*ii*) He should not be less than 45 years.

(*iii*) He should be a citizen of Pakistan.

(*iv*) His name should be included in the electoral list.

(*v*) No competent court should have declared him mentally deranged.

President shall be elected by the Parliament in a joint session of the two Houses. A member of the Parliament shall propose the name of a person, who fulfils the qualifications listed above, for the office of the President, and inform the Election Commissioner to this effect. A candidate supported by majority of the members of the two Houses shall become the President of Pakistan.

The President shall hold office for five years.

Main powers of the President are given below :

1. The President shall have the power to call a meeting of the National Assembly or the Senate or a joint session of the two and can also adjourn it. He can address any House of the Parliament. He shall have the power to dissolve the National Assembly acting on the advice of the Prime Minister. Even if he does not declare dissolution of the Assembly within 48 hours of the advice of the Prime Minister, the Assembly shall be deemed to have been dissolved.
2. His powers are very limited even in the field of law-making. The President shall not reject a bill passed by the Parliament. He must assent to it within seven days. If he does not do so,

the bill shall be deemed to have been assented to and it shall become a law.

The President enjoys only one real power in the field of law-making *i.e.* the decision of the President whether or not a subject pertains to Part One of the Federal List shall be final.

3. The President shall have the power to issue ordinances provided that the Assembly is not in session. The ordinances can remain in force for four months only. If a meeting of the Assembly is held within this period of time, the ordinance must be presented to it for approval, which may pass or reject it.

4. After the Prime Minister has been elected, the President shall invite him to form the government. He shall administer oath of office to the Prime Minister and all federal ministers.

5. The President shall have the power to appoint the Attorney General and Provincial Governors. In addition to this, the President shall nominate members of the National Economic Council, Council of Common Interests and Finance Commission. National Finance Commission must present its report to the President. The President shall allocate shares of the Provinces out of federal taxes on the basis of this report.

6. The President shall have the power to amend laws governing revenues, if circumstances so require. Similarly, a bill or amendment of a bill concerning a tax or duty, a part or whole of which is reserved for a province, shall not be introduced in the National Assembly without the prior approval of the President.

7. The President appoints Auditor-General, Chief Election Commissioner, Members of Islamic Council, Chief Justice and other Judges of the Supreme Court and High Courts.
8. President of Pakistan awards commission to members of the Armed Forces of Pakistan. He also appoints Chiefs of Staff of Army, Navy and Air Force and fixes their salaries.
9. The President is empowered to issue a proclamation of emergency in the country if he is satisfied that conditions in the country have deteriorated to the extent that its security is threatened, provided that he shall have to call a joint session of the two Houses of Parliament and get its approval within thirty days of the declaration.
10. If a provincial government fails to run the administration of the province according to the Constitution, the President can take over powers of the provincial government or order the governor to do so on his behalf. In such a situation, the concerned Provincial Assembly shall not be deprived of its powers and duties unless a separate notification is issued by the President to this effect.
11. During the state of emergency, Parliament shall assume law-making powers of the Provincial Assembly. But the Parliament can transfer these powers to the President. Laws framed in such a situation shall not remain operative for more than six months.
12. The President has the power to postpone or to reduce punishment awarded by any court or tribunal to a person or to grant him pardon.

Prime Minister is the repository of all power in a parliamentary form of government. The President enjoys only constitutional powers. Real power vests in the Prime Minister and his cabinet.

A meeting of the National Assembly shall be called on the thirtieth day following the day on which the general elections is held *to elect the Prime Minister.* The meeting can be called earlier, if the President so desires. After the Speaker and the Deputy Speaker of the National Assembly have been elected, *a Muslim Member of the Assembly shall be elected as Prime Minister.* To be so elected, the candidate shall require support of the majority of the total number of members of the National Assembly. If no member succeeds in mustering this support, polling shall be held again, in which two candidates polling the highest number of votes in the earlier poll shall take part. This time the Prime Minister shall be elected by a majority of the members present and voting in the Assembly.

The President shall invite the Prime Minister-elect to take over as Prime Minister. He shall also administer him the oath of office.

The following conditions shall have to be fulfilled to pass *a vote of no-confidence* against the Prime Minister:

(*i*) No-confidence motion shall not be introduced in the National Assembly unless the name of the successor candidate has also been proposed.

(*ii*) No-confidence motion shall not be introduced in the Assembly when the budget is under discussion.

(*iii*) The motion shall be voted upon only three days after and seven days before it is presented in the House.

(*iv*) If majority of the total number of members of the National Assembly expresses lack of confidence in the Prime Minister, the President shall invite the proposed candidate to form the cabinet and the earlier cabinet shall cease to exist.

In this connection, there is a temporary condition also. For a period of ten years or the holding of second general elections, whichever is later, no member of the National Assembly elected on the ticket of a political party, the majority of which is voting against the motion, shall vote for the no-confidence motion.

(v) If a no-confidence motion is once rejected by Assembly, no such motion can be admitted for the next six months.

Main duties and powers of the Prime Minister are given below :

1. The most important duty of the Prime Minister as chief executive of the country is to look after the executive machinery and oversee all departments of the Central Government. He is helped by his cabinet in the discharge of his duties. All Ministers, including the Prime Minister, are individually as well as collectively responsible to the Nationaly Assembly.
2. The Prime Minister forms his cabinet. The number of Ministers to be included in the cabinet has not been laid down in the Constitution. However, the Constitution lays down that the number of Ministers to be taken from the Senate shall not exceed one fourth of the total number of Ministers.
3. The Prime Minister can remove a Minister from the cabinet without assigning any reason.
4. The Prime Minister enjoys a number of powers in regard to financial matters. No financial bill

> can be introduced in the National Assembly without the prior approval of the Central Government. It is one of the duties of the Central Government to frame the budget and present it to the National Assembly. Similarly no demand for grant can be introduced in the National Assembly without the prior permission of the Central Government.

No single person has been empowered by the Constitution to declare war. Article 245 of the Constitution lays down that in the event of an attack, Central Government shall order the armed forces of Pakistan to defend the country. The armed forces can also be ordered to help the civil administration, if necessary. In actual fact, therefore, the Prime Minister has the power to declare war also.

All administrative powers of the Central Government shall vest in the Prime Minister. He shall have a *Council of Ministers* to advise and help him in the exercise of his powers and the discharge of his duties. The Ministers shall be members of the Parliament. They shall have the right to take part in the activities of the Parliament and its committees and vote like other members of the Parliament. The Ministers shall be responsible to the Parliament for their actions.

The work of the Government is divided into various departments. The Ministers are allocated one or more portfolios. Every Minister supervises the work of his department or departments. Important civil and military matters are, however, discussed and decided by the Council of Ministers.

In all countries of the world, policy of the government is framed by the head of the executive and the ministers. But work of the different departments is done by permanent government servants, who work under the guidance and direction of the ministers.

These government servants are selected by the Federal Public Service Commission.

CENTRAL JUDICIARY

Status of the judiciary in a country is the standard with which we can measure the independence and the extent of democratic rule obtaining in that country. The people of a country shall feel free and secure to the extent the judiciary of that country is independent and powerful. Independent judiciary is the guarantee of the rights of the people and is the soul of democracy. The people of a country can expect justice and feel secure only if the judiciary of that country is independent. Every endeavour is, therefore, made to separate judiciary from the executive in every democratic country.

Under the Constitution of Pakistan, the country shall have a *Supreme Court* and every province a High Court. Jurisdiction of the courts shall be determined by law. Judiciary was to be separated from the executive gradually within three years of the promulgation of the Constitution.

Supreme Court shall consist of a Chief Justice and some other Judges, the number of whom shall be determined either by the President of Pakistan or by the Parliament. The President shall appoint the Chief Justice. He shall consult the Chief Justice before appointing other Judges. A person shall fulfil the following conditions to make himself eligible to be appointed as a Judge of the Supreme Court.

(*i*) He should be a citizen of Pakistan.

(*ii*) He should have been a Judge of the High Court of a province for five years.

Or

He should have been an advocate of High Court for fifteen years.

The President of Pakistan shall administer oath of office to the Chief Justice and the Chief Justice to other Judges. The Judges of Supreme Court shall remain in office till they attain the age of 65. In the absence of the Chief Justice, the President shall appoint the senior most Judge as Acting Chief Justice of the Supreme Court. Similarly, any Judge of a High Court can be appointed Judge of the Supreme Court on adhoc basis.

JURISDICTION

Original Jurisdiction

There are certain matters in regard to which the Supreme Court can be approached directly without going to any other Court.

Under the Constitution, only the Supreme Court enjoys the power to adjudicate differences between the central government and one or more provincial governments or between two or more provincial governments.

People enjoy some fundamental rights under the Constitution. It is one of the basic functions of the Supreme Court to safeguard these rights.

Appellate Jurisdiction

Supreme Court has the power to hear appeals against the decisions, decrees and orders of High Courts. An appeal can be filed with the Supreme Court against the decisions of the High Court only in the following circumstances :

(*a*) If the High Court, on an appeal, had sentenced the accused to death or life imprisonment after he had been either acquitted or punished less severely by a lower court.

(*b*) If the High Court had taken over a case from a lower court and punished the accused more severely.

(*c*) If the High Court had punished a person for contempt of Court.

(*d*) If the High Court certifies that an important point regarding the interpretation of the Constitution of Pakistan is involved.

(*e*) If the decree in the last verdict had been deviated from or a different verdict given by a lower court in a dispute involving Rs. 50,000/- or more.

However, permission of the Supreme Court is necessary to file an appeal with the Supreme Court in all these cases.

Advisory Jurisdiction

If the President feels that it is necessary to obtain the opinion of the Supreme Court in a legal matter of public importance, he can refer it to the Supreme Court. The Court shall send the report of its opinion to the President.

Implementation of Orders

(*a*) The Supreme Court has the power to issue orders or directions which it regards necessary for a just decision in a case.

(*b*) The Supreme Court has the power to review its own judgement or verdict, provided that a law of the Parliament or its own procedure does not come into conflict with it.

(*c*) All courts in Pakistan must abide by the decision of the Supreme Court.

(*d*) All authorities connected with the judiciary and executive in Pakistan shall do every thing to help and co-operate with the Supreme Court.

(*e*) The Supreme Court can frame regulations to streamline its procedure within the limits prescribed by the Constitution and law.

Supreme Judicial Council: Supreme Judicial Council has been formed to fulfil requirements of the Constitution. It shall have Chief Justice of Pakistan, two senior-most Judges of the Supreme Court and two senior-most Chief Judges of the High Courts as its members. If at any time, a member of the Council is absent or is disabled to be a member of the Council on any account, next senior Judge shall be appointed member in his place.

If the President receives information from the Council or some other source, and if in his opinion, a Judge of the Supreme Court or a High Court cannot discharge his duties on account of some mental or physical disability or is guilty of misconduct, the President shall order the Council to investigate the matter. If the Council, after investigations, comes to the conclusion that the Judge is guilty of any one or two or all the charges, and recommends his removal from office, the President can remove him from office. It may be pointed out here that a Judge cannot be removed from office except in the manner detailed above. The working of the Council or the dismisssal of a Judge on the recommendations of the the Council cannot be challenged in any court of law.

Provincial Government

On the pattern of the central government, every provincial government has also three basic departments.

Legislature, whose work is to frame laws.

Executive, which is charged with the duty of implementing laws.

Judiciary, whose duty is to establish the real meaning of the laws and to impart justice and equity.

The Provincial Assemblies :

Pakistan comprises four provinces. *Every province shall have its own Assembly.* The number of general seats in various Provincial Assemblies shall be as given below :

Baluchistan	40
North West Frontier Province	80
Punjab —	240
Sind	100

The people in a province shall elect representatives for the Assembly through direct franchise. A voter must fulfil the following conditions :

(*i*) He should be a citizen of Pakistan.

(*ii*) He should not be less than 18 years of age ; (for bye-elections after the first general elections not less than 21 years).

(*iii*) His name should appear in the electoral rolls of the concerned constituency of the concerned province.

(*iv*) He should not have been declared insane by any competent court.

In addition to the seats mentioned above, some seats have been reserved for the minorities and women. Candidates for these seats will be elected by members of the Provincial Assemblies.

The term of the Provincial Assembly will be five years starting from the first day of its first session. The Assembly will stand dissolved automatically after the expiry of its term.

The Provincial Governor, however, on the advice of the Chief Minister, can dissolve it even before that period.

The Assembly shall hold at least two sessions in a year. And the intervening period between both the sessions shall not exceed 120 days. The Assembly shall meet for at least 130 days in a calendar year.

The decisions of the Assembly shall be taken by majority vote.

Some of the powers and functions of a Provincial Assembly are as follows :

All powers regarding Provincial Legislation vest in the Provincial Assembly. It can frame laws by simple majority. If the Assembly is not in Session, the Governor can promulgate an ordinance for a period of 3 months.

The Provincial Assembly, however, is not competent to enact a law which is in conflict with a central enactment on the subject. If such a situation arises, the federal law shall prevail and the provincial law shall be considered null and void to the extent it is in conflict with the federal law.

In addition to the enactment of laws, the Provincial Assembly controls the executive in the following manner:

(*a*) through raising questions ;

(*b*) through adjournment motions ;

(*c*) through vote of no-confidence ;

(A detail account of these methods has already been given in connection with the National Assembly).

Financial Powers :

It is essential for the provincial government to present to the Provincial Assembly every year an estimate of income and expenditure in the form of a Budget Report. *The Provincial Assembly has the power to pass or reject the budget. Except for the Provincial Accumulative or consolidated Fund, all monetary demands and proposals for new taxes are discussed and voted upon. In this* *way the Assembly exercises vigilance over the Provincial finances.*

The following expenditure can be meted out from the consolidated fund:

- (*i*) Remuneration payable to the Governor and other expenditure relating to his office.
- (*ii*) The remuneration payable to—
  - (*a*) The Speaker and Deputy Speaker of the Provincial Assembly and Members of the Provincial Assembly.
  - (*b*) The Judges of the High Court.
  - (*c*) The Provincial Ministers.
  - (*d*) The Parliamentary Secretaries.
  - (*e*) The Members of the Provincial Public Service Commission.
- (*iii*) All expenses of the offices of the above mentioned officers.
- (*iv*) Provincial Loans and all expenses incurred on them.
- (*v*) All the amounts which are required for the implementation of a decision of a Court or a tribunal, for payment of damages or the execution of a decree.

Apart from the expenses stated above all other expenses will be presented before the Assembly in the form of monetary demands alongwith the budget. The Assembly shall have the power either to reduce these demands or reject them. However, no demand for grant will be presented before the Assembly without the approval of the provincial government.

The estimate of income and expenditure of the financial year is called budget. It is the duty of the Provincial

Government, according to Article 120, to present the Annual Budget before the Assembly. Details of the amounts drawn on the Provincial Consolidated Fund are also presented before the Assembly. If the funds exhaust during the year, the government may present supplementary budget also.

Members of the Provincial Assembly enjoy the same rights and privileges as those of the National Assembly.

The provincial government shall comprise the Chief Minister and the Provincial Cabinet. Chief Minister will be the chief executive of the province. The provincial executive shall exercise its powers in the name of the Governor of the province concerned within jurisdiction of the province. Governor will be the constitutional head of the provincial executive.

Head of every Province is called Governor. Governors of the Provinces are appointed by the President of Pakistan. They represent the President in their respective Provinces.

According to the Constitution, Governor of a province possesses the same political and administrative position in his province as the President enjoys in the Federation.

According to the Constitution, every province shall have a Governor whose appointment is made by the President. The Governor shall continue in office during the pleasure of the President. The President can dismiss the Governor without assigning any reason and at any time. The Governor may, by writing under his hand addressed to the President, resign his office.

Before entering upon his office, the Governor shall make the oath of his office before the Chief Justice of the High Court concerned.

Some of the main powers and duties of the Governor are as follows.

Governor is the head of the Province in name only. The executive authority is vested in the Chief Minister and his Cabinet. The Governor acts on and in accordance with the advice of the Chief Minister and such advice is binding on him.

According to the Constitution, the Governor is authorised to summon sessions of the Assembly from time to time. He also decides the time and place of the session. Similarly, he can postpone the meeting of the Assembly.

The Governor shall appoint a person as Advocate—General who is capable of being appointed a Judge of the High Court. He shall hold office during the pleasure of the Governor.

According to the Constitution, the Judges of the High Court shall be appointed by the President. But the President shall do so in consultation with the Governor of the Province concerned.

The Governor enjoys security against the steps taken by him in execution of his duties.

The real source of authority in the Provincial Government is the Chief Minister who is also the Leader of the House in the Provincial Assembly. The Chief Minister performs his duties with the help of his Ministers. He has the authority to appoint or dismiss the ministers. Therefore, the provincial ministers, in addition to their responsibility to the Assembly, are responsible to the Chief Minister. The office of the Chief Minister carries the heaviest responsibility in the provincial administration.

According to the Constitution, the first session of the Provincial Assembly shall be held on the thirtieth day following the day on which general elections are held. Nevertheless, the Governor can summon its session even before the expiry of this period. In its first session, Provincial Assembly, after electing the Speaker and the Deputy Speaker, shall elect the Chief Minister. The Chief Minister shall be elected by a majority of the total number of the members of the Assembly. But if no candidate secures such majority in the first poll, a second poll shall be held between the members who secured the two highest number of votes in the first poll. The member who secures a majority of votes of the members present and voting shall be declared to have been elected as the Chief Minister.

The Chief Minister before entering upon his office shall take an oath before the Governor. The Chief Minister shall select the members of his cabinet from among the members of the Provincial Assembly. They shall also take an oath before the Governor before they take over their assignments.

The same procedure is adopted in initiating a motion of no-confidence against the Chief Minister in a Province, as the no-confidence motion is adopted against the Prime Minister in the Centre.

All the administrative powers of the Province shall be vested in the Chief Minister and his Cabinet, although these are exercised in the name of the Governor. In the Province, the powers and responsibilities of the Chief Minister are the same as those of the Prime Minister in the Centre. The Chief Minister assigns different departments of the government to the members of his cabinet.

In framing laws, the discretion of the Chief Minister plays a significant role. Being the leader of the majority party in the Provincial Assembly, no bill can be passed without the wishes and blessings of the Chief Minister.

The Governor has the power to dissolve the Provin- l Assembly but he does so on the advice of the Chief nister. In case, the Governor does not act on the vice of the Chief Minister, the Assembly shall stand solvod after the expiry of 48 hours.

According to the Constitution, the Chief Minister s been provided with a protection in connection with performance of his official duties and as such cannot tried in any court of law.

The Chief Minister has a *Council of Ministers* who p him in the discharge of his duties as provincial cutive. The ministers have a right to address com- ttees, participate in their proceedings and to exercise right of vote in the Provincial Assembly. Individu- y and collectively, the ministers are responsible for ir acts to the Provincial Assembly. Every minister is ponsible for the working of one or more than one partments. But important matters are decided by council of ministers.

The working of the departments of the provincial vernment is done by permanent *government servants.* ey are selected by the Provincial Public Service Com- ssion.

THE JUDICATURE

According to the Constitution every province has a igh *Court.* High Court is the highest Provincial Court. ery High Court consists of a Chief Justice and some her Judges whose number is determined according to w.

According to the Constitution, the President appoints e Chief Justice of a High Court in consultation with e Chief Justice of Pakistan and the Governor of the rovince concerned. In appointing other Judges, the

President consults Chief Justice of the High Court concerned as well.

For becoming a Judge of the High Court, a person shall fulfil the following conditions :

(*a*) He should be a citizen of Pakistan.

(*b*) He must not be less than 40 years of age.

(*c*) He must have a standing of 10 years as an advocate of a High Court.

Or

must possess 10 years experience in Civil Service, with at least 3 years service as District Judge.

The Governor of the Province shall administer *oath of office* to the Chief Justice of the High Court and the Chief Justice to the other Judges.

A Judge of the High Court shall remain in office till he attains the age of 62 years unless he prefers to resign earlier or is removed from his office in the manner detailed in the Constitution.

Whenever a Judge is absent or is unable to discharge his duties due to certain other reasons, the President has the power to appoint a person as *Additional Judge* who fulfils all the conditions for the appointment of a Judge.

The Chief Justice as also other Judges of the High Court are paid hansome salary in addition to other facilities such as that of accommodation, transport and pension etc. etc. so that they may perform their duties without any fear or favour.

The President can transfer a Judge from one High Court to another High Court. However, such transfer is to be made only with the consent of the person concerned and in consultation with the Chief Justice of

akistan and the Chief Justice of the province con-
erned.

If a High Court is satisfied that no adequate remedy provided by law, it can issue an order as follows :

(*i*) If a person within the jurisdiction of the High Court is performing his duty in connection with the affairs of the government or local authority, the High Court can refrain him from doing anything, he is not permitted to do by law, or oblige him to do any thing he is required by law to do.

(*ii*) If an officer of the federal, provincial or local authority while discharging his official duties takes any step for which he has no legal sanction, the High Court can render his action ineffective or without lawful authority by declaring that unlawful.

(*iii*) The High Court can issue an instruction regarding a person confined within the sphere of its jurisdiction that he should be produced before it in order that the Court may be satisfied whether that person has been held legally or illegally.

(*iv*) The High Court within its territorial jurisdiction can require a person holding government office or purporting to hold a government office to show under what authority of law, he holds that office.

(*v*) If the fundamental rights of a person are affected in any manner, the High Court on the application of such a person can issue such orders to any person, authority or government as are required for fundamental rights.

This jurisdiction is not, however, extended to the Armed Forces of Pakistan.

Cases can be divided into two categories :–

(*i*) Civil and (*ii*) Criminal. On this basis, the courts are of two kinds—(*a*) *Civil Courts*–(*b*) *Criminal Courts.*

Criminal Courts decide those cases in which a person commits such an offence as results in loss not only to the victim but also to others in the society. For instance, if a person murders another person, it is not only the victim who sustains loss but the offender is a menace to the whole society as well. Such a person can turn hostile against others. It is for this reason that physical injury, murder, theft and dacoity etc. are regarded offences against the society and in such cases the government is the prosecutor. *These are called criminal cases and are heard and decided byfore Criminal Courts.*

Generally, there is one *Sessions' Court*, in every district. *It is the highest Criminal Court of the district.* Sessions' Court has the powers to try only criminal cases. In murder cases, this court can award even capital punishment to the culprit. However, confirmation of such a judgement is to be sought from the High Court. Sessions' Court has also the power to hear appeal against the decisions of Magistrate I. The presiding Judge of the Sessions' Court is called a Session' Judge.

There are various senior and junior *Magistrates* under Sessions' Judge who hear criminal cases. Appeal against the judgement of Magistrates lies with the Session's Court.

There is a District Judge who supervises all the civil courts of the district. His court is the highest civil court of the district. Generally. one and the same person is appointed District and Sessions Judge. He hears Crimial Cases as a Sessions Judge. District Judge tries pre- minary cases of bigger amounts and hears appeals ainst the decisions of Civil Judges. Appeal against e decisions of the District Judge lies with the High ourt.

Relations Between Federation and the Provinces.

Division of Legislative Powers : The Constitution f Pakistan, 1973 provides for two legislative lists—the deral legislative list and the concurrent legislative list. he Parliament has the exclusive power to legislate on bjects included in the federal legislative list. However, e Parliament and Provincial Assemblies both can legis- te on subjects included in the concurrent list. But if provincial law conflicts with a federal law, the provin- al law shall be held null and void in so far as it is re- ugnant to the federal law. Provincial Assemblies have ower to legislate on subjects not included in any of the o lists.

If two or more than two Provincial Assemblies, rough a resolution, request the federal legislature to gislate on a subject not mentioned in either of the gislative lists, the Parliament has power to do so. But hus constituted law can be amended or rejected through n Act of the Provincial Assembly concerned.

Administrative Relations: (*i*) The President can direct he Governor of a Province to discharge certain func- ons as his agent in general or in a particular matter in spect to the areas that are included in the federation ut do not form a part of any province.

(*ii*) The federal government, conditionally or un- onditionally, with the consent of any provincial govern- ent, can assign any such tasks to its officials as come ithin the purview of federal administration.

(*iii*) Parliament, through an Act, can empower a rovince or its officials to deal with matters about which the Provincial Assembly is not normally authorised to make laws. In such a case, the Centre will pay a settled amount to the Province.

(*iv*) Like federal government, with the consent of federal government, the provincial government can assign such duties conditionally or unconditionally as are included in the provincial administrative sphere.

(*v*) Provincial governments, while exercising their authority, should see to it that they do not infringe or violate any federal Law. In the same manner, the executive authority of the federal government shall be so exercised as to secure the authority of the province.

(*vi*) It shall be the duty of the Centre to save every province from external aggression and internal disintegration.

Similarly, it shall be the duty of the federal government to see to it that the provincial government is being run according to the Constitution.

(*vii*) The proceedings and verdict of the provincial courts shall be respected throughout Pakistan.

(*viii*) Inter-provincial trade shall be completely free unless Parliament imposes any limits or conditions in this connection.

(*ix*) An Act of the Provincial Assembly which has the sanction of the President cannot be held without lawful authority.

If the federation deems it necessary to acquire any land situated in a province for any purpose connected with a matter with respect to which Parliament has power to make laws, it may require the province to acquire that land and if the land is the property of the province to transfer it to the federation.

Distribution of Revenues between the Federation and Provinces : The President shall appoint a *National ance Commission* comprising the Federal Finance nister, Finance Ministers of the Provinces and such er members as are nominated by the President in nsultation with the Provincial Governors.

National Finance Commission shall present its remmendations to the President regarding the following tters :

(*a*) division of income from taxes between the federation and the provinces.

(*b*) aid to be given to the provinces by the federal government.

(*c*) all those powers which the Constitution has given to the centre and provinces to procure debts.

(*d*) All those matters concerning finance which the President may refer to the Commission accordding to the recommendations of the Commission. The President shall fix amounts to be given to the provinces.

The recommendations regarding the above mention matters and detailed report of expenses to be incurred this context shall be presented to the Parliament and e Provincial Assemblies.

According to the Constitution, income received rough natural gas shall be given to provinces in which s wells are situated. Similarly net profits earned from e bulk generation of power at a hydro-electric station all be given to the province in which power generaon installations are situated.

It should be remembered that no bill about taxes ceived by the provinces can be presented in Parliament ithout the previous consent of the President.

LOCAL COUNCILS

According to the Punjab Local Government Ordinance 1979, the following Local Councils shall be constituted :—

1. *Union Council* : Members of the Union Council shall be elected by the residents of the Union and their number shall not exceed 15 as determined on the basis of population of the area ranging between 1000 and 1500 of the electoral units with a marginal adjustment of 400 in the upper limit. The candidates shall not contest election on party basis or on the basis of the manifesto of any political party. The number of non-Muslim members in a Local Council other than a Tehsil Council shall be such as may be fixed by Government keeping in view the population of non-Muslims in that area provided that there shall be at least one non-Muslim member in each Local Council and one representative of peasants.

The Union Council may and if so directed by Government shall undertake all or any functions regarding public buildings, public gardens, lighting arrangements of public places, plantation, sanitation, water, registration of births and deaths, celebration of public festivals, civil defence and removal and disposal of manure and street sweeping. It may also act as agent of the Government for the construction and maintenance of schools; health centres, and family welfare clinics etc.

2. *Tehsil Council :* A Tehsil Council shall perform the duties entrusted to it by the Government or the Zila Council from time to time.

3. *Zila Council* : The number of members of Zila Council shall be determined on the basis of population of 50,000 with a marginal adjustment of 10,000 on either side. The number of members representing women and

peasants shall be fixed equal to 5% of the number of actual members of the Zila Council subject to a minimum of one and a maximum of three. One member shall represent the workers.

The Zila Council may and if Government so direct shall undertake all or any functions regarding public works, public health, education, agricultural and rural development, food and drinks, live-stock, dairy development, culture, public safety, social welfare and community development etc. It means that Zila Council shall maintain, improve and manage public roads, streets, wells, buildings and water pumps. It shall also establish, maintain and manage hospitals and health centres. Provision, construction and maintenance of schools and promotion of adult education shall also be the respsonsibility of the Zila Council. The Zila Council shall also take steps to develop and promote agriculture, industries and markets. Zila Council shall also work for the improvement and maintenance of breeding of cattle, pastures, dairies and poultry farms etc. It shall prepare and implement schemes for preventing air and water from pollution. In a nutshell, the Zila Council shall perform all the functions which are necessary for the improvement, development and betterment of the people and the district.

4. *Urban Local Councils,—(Town Committee, Municipal Committee and Municipal Corporation)* : The number of members of Town Committee shall be determined according to the population of the area *i.e.* nine members for population exceeding 5,000 but not exceeding 10,000 ; twelve members for population from 10,000 to 15,000 and fifteen members for population from 15,000 to 20,000. The number of members for Municipal Committee will also be determined in accordance with the population of the area *i.e.* fifteen members for a population of 20,000 to one lac, twenty members for a population of one lac tó 2 lac, twenty five members for

a population of 2 lac to 3 lac, thirty members for a population upto 5 lac. The maximum number of members will be thirty five for a population exceeding 5 lac. Similarly, the number of members of Municipal Corporation shall be determined on the basis of population *i.e.* fifty members for a population exceeding 5 lac but not exceeding 10 lac, seventy five members for a population not exceeding 20 lac and hundred members for a population exceeding 20 lac.

The number of members representing women and workers shall be fixed equal to 5% of the number of actual members of the Zila Council, subject to a minimum of one and a maximum of three.

There are two types of functions of Urban Local Council—*compulsory functions* and *optional functions*. The compulsory functions are related to sanitation, drainage, education, public safety, town planning, building control, social welfare and community development.

The Urban Local Council shall be responsible for the sanitation and removal, collection and disposal of refuse of its area. The Urban Council shall register all births and deaths within the limits of its area. It shall also adopt measures to prevent infectious diseases and for that purpose shall estabish hospitals and dispensaries. It shall also provide a regular supply of wholesome water for public and private purposes. It shall also construct, maintain, keep and clear the drains. An Urban Local Council shall also establish, maintain and manage educational institutions for the promotion of education in its area. An Urban Local Council shall maintain a Fire Brigade for the prevention and extinction of fire. It shall also be responsible for the civil defence of its area and in this behalf perform such functions as may be entrusted by the Government. An Urban Local Council may and if required by Government shall draw up Master Plan for its area. It shall build markets, public places, public latrines and rinals. It shall approve the site for the erection of rivate buildings. An Urban Council shall have the right o demolish dangerous or such buildings as are not suit- ble for dwelling.

Promotion of public health, maintenance of dohbi hats and public places for recreation, plantation of trees, rganisation of museums and exhibitions and establish- ent of welfare homes are some of the optional func- ions of Urban Local Councils.

Urban Local Councils shall levy taxes, charges nd surcharges to meet the expenses of the above stated nctions. These Councils shall make their budget every ear and forward a copy thereof to the Government.

Under the Punjab Local Government Ordinance, 979, elections for all the Rural and Urban Councils ere held throughout the country the same year and they tarted functioning in January 1980. In 1983, elections ere held second time and these local bodies are perfor- ning their duties in their respective areas.

EXERCISES

1. **Write down the main characteristics of the Constitution of 1973.**
2. **How many Houses are there in the Parliament according to Constitution of 1973 ? Give an account of the major powers and functions of the Parliament.**
3. **How is the President of Pakistan elected ? What are his major powers and fuctions ?**
4. **Account for constitutional and political position of the Prime Minister of Pakistan, as given in the Constitution of 1973.**
5. **What are the minimum conditions that a person must fulfil with a view to qualifying himself for the appointment of a Judge of the Supreme Court. Also give a detailed description of the powers and functions of the Supreem Court.**

6. Give an account of the relationship between the Federation and the Provinces in the light of the Constitution of 1973.

7. Give the structure of Local Self-Government, under the Punjab Local Government Ordinance, 1979. Give some of the important functions of a Union Council.

8. What is meant by 'Urban Local Council'? Account for the important functions of these councils.

9. What is the procedure for the amendment of the Constitution of 1973.

10. Write short notes on the following:—
    (*i*) Supreme Judicial Council.
    (*ii*) Council of Common Interests.
    (*iii*) National Economic Council.

Chapter VIII

Pakistan——A Developing Country

The term "*developing countries*" is generally applied to those countries which won independence from their colonial masters after World War II. These countries include most of the Asian and African countries, which remained under British, French, Spanish, Dutch and Belgian occupation for centuries. But, this term is not confined to these countries. Many countries which achieved independence before World War II are also called developing countries. These countries include Latin American countries. The term is also applied to some countries which never became colonies.

After Industrial Revolution in the nineteenth century, European countries started making rapid progress in industrial, economic, political and social fields. Their progress depended not only on the resources of their own countries, but also on the resources of their colonies in Asia and Africa. So the European countries continued to become richer and stronger, while the Asian and African countries grew poorer and weaker. On account of this difference in the level of development, rich European countries came to be called 'advanced countries' and Asian and African countries 'backward countries'. After the achievement of independence, however, these Asian and African countries also started paying attention to the development of their countries. So the term 'backward countries' was dropped and these countries came to be called 'developing countries'. Now, *this term is applied to all those countries which are trying to achieve a reasonable standard of social, political and economic development.*

Conditions of Development :

All countries of the world differ from each other in their social heritage and cultural, religious and ideological aspirations. It is not, therefore, possible to set one standard by which to measure the level of development of every country. However, a reasonably correct estimate of the level and pace of development of a country can be made by providing the degree of progress made by that country in the following spheres ;

(*i*) unanimity of opinion on social and political aspirations of the country.

(*ii*) stability of constitutional government.

(*iii*) percentage of literacy.

(*iv*) nature of relationship between the people and their leadership.

(*v*) specific objectives of political institutions.

(*vi*) pace of political activity in far flung rural areas of the country.

(*vii*) role of violence in politics.

(*viii*) safeguards for the interests and rights of minorities.

(*xi*) establishment of organized vested interests.

(*x*) nature and degree of civilian control over armed forces of the country.

United States fulfils practically all the conditions listed above and can be called a developed country. Pakistan, on the other hand, sits far behind.

The above analysis shows that there is a marked difference between the social and political conditions prevailing in the developed and developing countries. Most of the social, political and economic problems of the developed countries have been solved, while these problems in most of the developing countries have not even been clearly identified. In some countries, these problems are becoming more and more complex with every passing day. It is, therefore, the duty of developing countries to identify their peculiar problems and try to solve them keeping in mind their historical and geographical situation and their ideological commitment. Without this, they can neither safeguard their independence nor attain recognition at the international level.

Problems of Developing Countries :

The main problem that every country faces after its independence is the maintenance of national unity and integrity of the country. It is, therefore, necessary :

(*i*) that the people should always remain united ;
(*ii*) that they should organize themselves into a united whole ;
(*iii*) that they should avoid differences of serious nature ;
(*iv*) that they should guard themselves against elements and factors which can harm the integrity of the country.

A nation can achieve its national objectives and aspirations only if it maintains unity in its ranks. A disunited nation falls a prey to chaos and endangers its independence.

The population of a country is sometimes divided into economic, linguistic, social and religious groups. These groups think in terms of their own interests. This results in hatred for and prejudice against other groups. These groups ignore even national interests for their group interests. Loyalty to the group takes the place of loyalty to the state. Developing countries should, therefore, start country-wide programmes to remove regional, social and class prejudices. But, the biggest weakness of these new born states is that their governmental machinery is not strong enough to do this task.

Some groups do not place confidence in the government. These regional groups oppose the central government and want to be recognized as self-governing units. Lack of, means of communication does not allow the government to establish purposeful communication with the masses. This results in regional uprisings and demands for self-government.

The above discussion leads us to the conclusion that developing countries face the problems of:

(*i*) national unity; and
(*ii*) integrity and solidarity of the country.

These problems can be solved only if the following causes are removed:

(*a*) *Effects of Colonial Domination:* Most of the Asian and African countries have remained under colonial domination for long periods of time. This has left its traces on the minds of the people of these countries. On the one hand, they expect their governments to solve all their problems in no time; on the other hand, they do not have enough confidence in their capacity to do so. This results in psychological confusion and a state of mistrust between the government and the people.

(*b*) *The Ruling Class*: The ruling class and the intellectuals are different from the general public in many respects. They wear different dress and speak different language. Their ways of living are different from those of the people. This creates distance and tension between the government and the people. The people express their hatred for the government through violent demonstrations.

(c) *Deficient Performance of Political Parties:* The political party, which wins independence for the country, becomes the ruling party. But, it does not realize that its role must change after independence. It tries to remain in power by fair or foul means. Also, political parties in such countries usually revolve round personalities. In such a situation political parties disappear with the disappearance of the personalities. Moreover, the nation as a whole, does not possess sufficient political experience and awareness. This results in political instability.

(d) *Ideological problems:* Apart from social and political problems, most of the developing countries face ideological problems. These countries achieve independence as a result of movements started on ideological lines. But, selfish elements capture power after independence and ideology is pushed into the background. This results in internal disorder and chaos. Sometimes, foreign powers take advantage of the situation and try to destroy the ideological foundations of the nation.

The above discussion shows that practically all developing countries face almost the same basic problems. None of the countries can make real progress unless the causes of these problems are removed. The secret progress lies in national unity and integrity and solidarity of the country. The level and pace of development of a country will depend on the level of unity achieved by the nation.

Like all developing countries, **Pakistan** has also been facing all these problems since its establishment. Little success has so far been achieved in removing the causes of these problems. In these circumstances, it is necessary that a comprehensive programme should be started at the national level to strengthen the foundations of national unity. Arrangements should be made to spread and popularise Islamic culture and values so that a sense of oneness is created among the people. System of education should be brought in line with Islamic principles. All media of communication should be utilized to strengthen national unity and integrity and solidarity of the country.

A common national language is necessary for the creation of a sense of national unity among people who belong to different races and speak different languages. Pakistan is very fortunate in this respect. Pakistanis have a common national language which is capable of meeting the needs of the people at the national level.

Urdu is regarded as one of the important languages of the world. It is an effective means of communication between various Provinces of Pakistan. A rich treasure of knowledge is available in Urdu regarding Islamic civilization and culture. Urdu has been declared national language in the Constitution of Pakistan. It is, therefore, our duty to encourage a sense of linguistic unity among the people of all the Provinces of Pakistan.

Establishment of a just political system is very necessary for creating national unity in the country. Government of the country should be run according to the free will of the people. Democratic institutions should be established and democratic principles encouraged. Press and Judiciary should be free of all controls and pressures so that the people of Pakistan can lead their lives in a free and healthy political atmosphere. This will help in the creation of a sense of patriotism and national solidarity among the people of Pakistan.

Economic and social system of the country should be based on the principles of justice and equality so that the people of Pakistan can enjoy the fruits of their our according to their capabilities. This is the best thod of promoting national unity.

Conditions should be created in Pakistan so that minorities can live a secure and contended life. eir problems should be looked into sympathetically. ery effort should be made to make them feel at home. their part, it is their moral duty to be loyal to kistan.

Like all developing countries, Pakistan has to overme certain difficulties and problems. These problems d difficulties have been identified. There is, therefore, reason why the people of Pakistan should not be able solve them. Possibilities of progress and development exist. It is for us to do our duty to the country.

EXERCISES

1. Define the term 'developing country'. Also detail down the different aspects that may help one judge the stage and pace of development of a country.
2. What are the various hinderances that stand in the way of national unity and cohesion ?

Chapter IX

Pakistan and its Neighbours

The basic principle of the foreign policy of Pakistan is to establish friendly relations with all countries of the world in general and with neighbouring countries in particular. Pakistan enjoys a unique geographical position in that it has three big countries as its close neighbours, namely the Soviet Union (U.S.S.R.), Peoples Republic of China and Bharat. It is, therefore, obliged to strike a balance in its relations with these countries, the United States and other big powers of the world. The only consideration, however, is that its national interests are not jeopardized in any way.

Pakistan and Bharat :

Bharat is the closest neighbour of Pakistan. The history of relations between the two countries is rather un-pleasant. Muslims of the Indo-Pakistan sub-continent demanded the establishment of a separate country so that they are enabled to lead their lives according to the teachings of Islam. They believed that it was impossible for them to retain their separate entity as Muslims in undivided India. The Hindus led by the Indian National Congress opposed the establishment of Pakistan very strongly. Pakistan was, however, established on August 14, 1947. But, Bharat has not reconciled itself to the establishment of Pakistan. It has not accepted the Two-Nation Theory which was the basis of the establishment of Pakistan.

Bharat started creating problems for Pakistan from the very beginning. More important problems between the two countries included the problem of refugees, ivision of assets, division of river waters and the State f Jammu and Kashmir. The problem of Kashmir re- aains unsolved even today. Even two wars, one in 965 and the other in 1971, have not been able to solve his problem. At present, it is the most important ause of bitter relations between the two countries.

Relations between Bharat and Pakistan became very trained when Bharat sent its guerillas and regular arm- d forces to East Pakistan (now Bangladesh) to help the eparatist movement there. It launched a full-fledged ttack first on East Pakistan (now Bangladesh) and then n West Pakistan (now Pakistan) in 1971. This resulted n the separation of its East Wing from Pakistan and he establishment of Bangladesh.

Simla Agreement was signed between the two countries in 1972. This provided for the establishment of a line of control in Kashmir. The two countries agreed to solve this problem through negotiations. They also agreed to settle all their disputes through peaceful means so that friendly relations are established between the two countries. Diplomatic relations were re-established between the two countries after the Simla Agreement. Trade between the two countries has started on a limited scale. Talks on Pakistan's proposal of a no-war pact and Bharat's proposal of a treaty of friendship and co-operation between the two countries have now been going on for quite sometime at the Secretaries' and Ministers' level. It is hoped that relations between the two countries would become more friendly with the passage of time.

Pakistan and Afghanistan :

Afghanistan has a long hilly border with Pakistan. It is Pakistan's closest Muslim neighbour. The two countries are linked with each other historically, geographically and economically. Immediately after its establishment, Pakistan extended the hand of friendship towards

Afghanistan. But, Afghanistan did not do the same. Rather, Afghanistan was the only country which opposed Pakistan's admission to the United Nations.

Afghanistan started a propaganda campaign against Pakistan to harm its integrity. It refused to recognise Durand Line as international border between the two countries and laid claim to the tribal areas of Pakistan. Sir Mortimer Durand had fixed Durand Line as border between the two countries according to an agreement between Afghanistan and undivided India in 1893.

Afghanistan's claim to the tribal areas of Pakistan was completely baseless. These areas formed part of undivided India according to the Government of India Act, 1935. North West Frontier Province had never been a part of Afghanistan. It was a Province of British India. It, therefore, formed a part of Pakistan legally and constitutionally. But, the Government of Afghanistan continued its hostile propaganda against Pakistan. It actually started interfering in the internal affairs of Pakistan. Diplomatic relations between the two countries broke off in 1961. These relations were, however, re-established with the help of the Government of Iran.

Pakistan has always provided transit facilities to Afghanistan for its trade with other countries. It did so even during the period when it did not have diplomatic relations with Afghanistan. In addition to this, the President of Pakistan visited Afghanistan in the hope that relations between the two countries would improve. But, all efforts of Pakistan proved futile.

The recent Russian intervention in Afghanistan has made things worse. Indirect talks between the two countries are, however, going on with the help of the representative of the UN Secretary General. It is hoped that a political solution would be found to settle the Afghanistan problem.

Pakistan and Iran:

Iran is another neighbour of Pakistan. Majority of its population is Muslim. The two countries have always had very friendly relations with each other. Racial, historical, social, political and cultural relations have existed between the peoples of the two countries for centuries. Iran was the first country which recognized Pakistan in 1947. A treaty of friendship was signed between the two countries in Tehran in 1950. The leaders of the two countries visited each other's country the same year and trade, defence, cultural and political agreements were signed.

The two countries signed another trade agreement in February, 1958. This agreement removed many trade barriers and enlarged the scope of trade. Another agreement was signed in 1959 as a result of which boundary between the two countries was demarcated to the satisfaction of both the parties.

Pakistan and Iran were members of the Baghdad Pact which was later on called the Central Treaty Organization (CENTO). Pakistan has since pulled out of the CENTO. However, Iran, Pakistan and Turkey are members of the Regional Cooperation for Development (R.C.D.) This agreement is also called Istanbul Agreement. Important objectives of the Agreement include:

(*i*) development of facilities of transport between the three countries;

(*ii*) development of means of communication;

(*iii*) development of joint ventures;

(*iv*) establishment of a joint chamber of commerce and industry; and

(*v*) development of shipping services.

Pakistan can never forget the material and moral help that Iran provided to Pakistan in every hour of need including the two wars against Bharat ; one in 1965 and the other in 1971. Iran provided Pakistan with financial assistance for many development projects. These projects include taxtile mills and cement factory. Iran also provided foreign exchange facilities for Bolan Medical College. Iran helped Pakistan in stabilising its economic conditions by providing crude oil.

The two Muslim countries share a number of values of life. Teachers, students, writers, and artists of both the countries have visited each other's country. This has strengthened relations between the two nations. A full-fledged department of Urdu has been established in Tehran University.

Pakistan and the Peoples Republic of China :

China is a great friend and neighbour of Pakistan. Pakistan enjoys friendly relations with this country. Pakistan was one of the earliest states to recognize China. China views with gratitude the role played by Pakistan in the admission of China to the membership of the UN and the establishment of relations between China and the United States.

The relations between China and Pakistan were quite formal in the beginning.. Bandung Conference held in 1955 marked the beginning of friendly relations between the two countries. The issue of demarcation of boundaries between the two countries was settled in 1963 to the entire satisfaction of both the parties. This created an atmosphere of friendliness in their relations.

China is the biggest buyer of Pakistani Cotton under the Barter Agreement signed between the two countries. Pakistan purchases steel, cement, coal, machinery and other goods in exchange. Western countries reacted to this agreement very sharply. They stopped the supply of all kinds of aid for Tarbela Dam immediately. Western countries also refused to give aid for the construction of DhaKa Airport (situated in Eastern Wing of Pakistan, now called Bangladesh) when Pakistan signed an Air Agreement with China. Project for the installation of a nuclear power plant was also shelved. In the meantime, China offered an interest–free long term loan worth six crore dollars to Pakistan which was accepted gratefully. This also caused sharp reaction in Western Countries.

P.I.A. was the first non-communist Airline to get landing rights in Beijing. The route which crosses the K-2 has now been extended to Japan.

Relations between China and Pakistan have been established on the basis of equality. The two countries exchange cultural and technical delegations quite frequently. China has granted a number of scholarships to Pakistani teachers. China is also helping Pakistan in the field of industrial development. Chinese contribution to Heavy Mechanical Complex at Taxila is quite large. They have also provided large amount of aid in the field of shipping.

Pakistan views with gratitude the material and moral help extended by China in the event of Bharati aggression against Pakistan. China has continuously been assisting Pakistan in meeting its defence needs. The two countries exchange military and political delegations quite frequently. The two countries support the right of self-determination of the peoples of the world. They condemn external interference in the internal affairs of all countries. They have established relations with other countries on the basis of equality. The relations between the two countries are contributing to the maintenance of world peace. These relations are bound to have far-reaching effects on international politics.

President of Pakistan visited China in 1982. Visits of other high-powered delegations were also exchanged. Matters of international importance were discussed during these visits. Both the countries have similar views on most of the international problems.

EXERCISES

1. Give an account of the relations between Pakistan and Bharat.
2. How do you account for the relations between Pakistan and the Peoples Republic of China.
3. Give an account of the relations between Pakistan and Iran.

Chapter X

The United Nations

World War II (1939-45) had brought untold misery and suffering to mankind. Millions of people had been killed or wounded. Millions of them had been rendered homeless. Property worth millions of dollars had been destroyed. Mankind could take no more. So, peoples of the world decided to adopt ways and means to stop future wars. This could be done only if an organization was established which could solve international disputes. More prominent leaders of the world got together to give a practical shape to their dreams of the peaceful future. An analysis of their efforts is given below :

Pacific Manifesto : A meeting between Mr. Roosevelt, the President of USA, and Mr. Churchill, the Prime Minister of England, was held on a naval ship in Pacific Ocean in August, 1941. They issued a declaration after this meeting. This declaration was called *Pacific Manifesto*. This Manifesto declared that every nation had the right to choose a government of its own liking and that no state had the right to destroy the independence of other states. This Manifesto was based on eight principles. More important of these principles are given below :

(*i*) condemnation of all kinds of aggression;

(*ii*) acceptance of the right of self-determination of all nations of the world;

(*iii*) desire for international friendship and world peace ; and

(*iv*) acceptance of equal rights of all nations.

This Manifesto was signed by 26 nations in 1942.

2. *Moscow Conference*: A meeting of the Foreign Ministers of U.S.S.R., U.S.A., Britain and China was held in Moscow in 1943. It called for the establishment of an international organization which would maintain peace in the world. Its declaration was based on the principle of equality of peace-loving states.

Another Conference was held in Tehran in 1944. It was attended by Mr. Roosevelt, President of U.S.A, Mr. Stalin, President of U.S.S.R., and Mr. Churchill, Prime Minister of England. It declared that the proposed International Organization would ensure lasting peace in the world and remove the danger of war for the coming generations.

3. *Dumbarton Oaks Conference*: A meeting of the representatives of Great Britain, USSR, USA and China was held in Washington in 1944. Many proposals regarding the proposed international organization were given a final shape. The proposed security council was given the task of maintaining peace in the world. Five big countries were made permanent members of the council. They were also given the right to veto any resolution moved in the council.

4. *Yalta Conference*: Mr. Roosevelt, Mr. Stalin and Mr. Churchill met in a conference at Yalta in 1945. They decided that a charter of the United Nations should be prepared and put up before a conference of the countries of the world at San Francisco for approval.

5. *San Francisco Conference*: Representatives of twenty five countries of the world met at San Francisco in 1945. They discussed the structure of the United Nations and approved its Charter. They signed this Charter on June 26, 1945. United Nations Organization came into being formally on October 24, 1945.

Charter of U.N.O.

Essence of the main provisions of the UN charter is

iven below :

(*i*) To save the coming generations from the misery caused by war.

(*ii*) Recognition of the dignity and worth of man.

(*iii*) Provision of basic human rights for every human being.

(*iv*) Provision of equal rights for women.

(*v*) Provision of equal rights for all states without any exception.

(*iv*) To do justice in the solution of international disputes.

(*vii*) To oblige every state to respect international agreement.

(*viii*) To raise the standard of living of all the peoples of the world.

(*ix*) To enable all states to maintain friendly relations with each other.

(*x*) To enable all states to work unitedly for world peace.

(*xi*) To oblige all states to refrain from the use of force unless it was necessary in the interest of the peoples of the world.

(*xii*) To establish an international organization for social, economic and cultural development of the peoples of the world.

Objectives of the UN.

Some of the important objectives are :

(*i*) To maintain international peace and security and to help in finding peaceful solutions of international disputes.

(*ii*) To create an atmosphere of friendly co-operation among nations and to support the right of self-determination of all peoples of the world.

(*iii*) To help various nations in solving social, economic, cultural and human problems and to safeguard basic human rights without prejudice to colour, race, language or religion.

(*iv*) To establish an organization for collective struggle for the achievement of these aims.

Basic Principles of the UN :

Some of the important basic principles of the UN are :

(*i*) All members of the UN are equal and sovereign.

(*ii*) All members have firmly resolved to settle international disputes through peaceful means.

(*iii*) No member shall use force or threaten to use force against any other state.

(*iv*) All members shall support all steps taken by the UN, which are in conformity with its Charter.

(*v*) The UN shall not interfere in the internal affairs of any state unless it is necessary for the maintenance of international peace.

Membership of UN :

All those states who signed the Charter of the United Nations became members of the organization. Every peace-loving state who promises to abide by the UN Charter can become a member of the organization. The name of such a state shall be recommended by the Security Council and approved by 2/3rd members of the General Assembly. Any one of the five permanent members of the Security Council can veto the admission of a state to the membership of UN. General Assembly can remove a state from the membership of the UN on the recommendations of the Security Council, if that state contravenes the Charter of the UN repeatedly.

Organs of the UN.

The UN comprises the following major organs :

1. The General Assembly.
2. The Security Council.
3. The Economic and Social Council.
4. The Trusteeship Council.
5. The International Court of Justice.
6. The Secretariat.

1. *The General Assembly*: The General Assembly s an important organ of the UN. It enjoys the status of an international parliament. All member countries are represented on the General Assembly. Every member state has one vote. However, it can send a delegation of five to represent it on the General Assembly. The General Assembly holds its session in New York in the month of September every year. After electing the President of the Assembly, the delegates discuss matters included in the Agenda. A special session of the Assembly can be summoned to discuss a matter of extreme emergency.

Some of the more important functions of the General Assembly are :

(*i*) To create an atmosphere of social, political, cultural and educational co-operation between member states.

(*ii*) To oblige member states to grant and safeguard basic human rights without prejudice to colour, race, etc.

(*iii*) To create conditions to raise world standards of living, to provide better opportunities of employment, and to promote social and economic development.

(*iv*) To promote international friendship and goodwill.

(*v*) To strive for the maintenance of world peace. The General Assembly cannot, however, interfere in matters which are being looked into by the Security Council.

(*vi*) To elect members for the following organs of the UN :

(*a*) Ten non-permanent members of the Security Council.

(*b*) Twenty seven members of the Economic and Social Council.

(*c*) Some members of the Trusteeship Council.

(*d*) The Secretary General. The name of the candidate has, however, to be recommended by the Security Council.

(*e*) Judges of the International Court of Justice in consultation with the Security Council.

(*vii*) To accept membership of a state on the recommendations of the Security Council. It can also suspend the membership of a state.

(*viii*) To approve the budget of the UN, and to fix amounts that member states have to contribute.

(*ix*) To approve agreements of the UN.

2. *The Security Council* : The Security Council occupies central position in the UN. It consists of fifteen members. USA, USSR, China, France and Britain are permanent members of the Council. Non-permanent members are elected by the General Assembly for a term of two years. No member can be elected twice in a row. A resolution needs eleven votes to be passed by the Security Council. Any one of the permanent members can veto a resolution or a proposal put forward by any member of the Council. It means that all five permanent members must agree on the ways

and means to find a solution to a problem. If a permanent or a non-permanent member is a party to a dispute, it does not enjoy the right to vote in this matter.

The Council holds its sessions generally once a fortnight. These sessions can be shifted to other places than New York with the consent of the members.

Some of the more important functions of the Security Council are :—

(*i*) To maintain international peace and security.

(*ii*) To take steps to remove any danger to peace in any part of the world. These steps may include boycott of economic and diplomatic relations, disruption of means of communication or use of armed force against the aggression. It is the duty of the member states to provide contingents of the armed forces for this purpose.

(*iii*) To recommend to the General Assembly suspension or removal of a state from the membership of the UN.

(*iv*) To inquire into and investigate all problems and disputes between member states. In this connection, it appoints an inquiry commission and takes necessary steps on its report.

3. *Economic and Social Council*: This Council comprises twenty seven members elected by the General Assembly. The members can be re-elected. It elects one of its members as its President. It must hold at least three sessions in a year. Decisions are taken by majority vote. Its functions are :

(*i*) To raise standards of living in backward areas, and to explore possibilities of economic and social development.

(*ii*) To create a sense of respect for individual freedom and basic human rights in member states.

(*iii*) To hold international conferences on social, economic, cultural and educational problems.

(*iv*) To co-operate with specialized agencies of the UN *i.e.* WHO (World Health Organization) UNESCO (United Nations Educational Scientific and Cultural Organization) FAO (Food and Agriculture Organization).

(*v*) To prepare plans for the improvement of health, education, culture and economic conditions of member states and to submit them for the approval of the General Assembly.

4. *Trusteeship Council* : This Council was formed to oversee the movement of trust territories towards full independence. There were many trust territories and their administration was entrusted to one of the advanced states for a specified period of time. Most of these trust territories have since achieved independence.

This Council comprises the following members :

(*i*) Representatives of the trust territories.

(*ii*) Members of the Security Council, who are also administrators of trust territories.

(*iii*) Members elected by the General Assembly. Their number is equal to the number of administering members.

This Council must hold its sessions two times a year. It elects its president in each session. Every member has one vote. Decisions are taken by majority vote.

5. *International Court of Justice* : This court is the judicial organ of the UN and is located in the Peace Palace in the Hague. It comprises fifteen Judges who

e elected by the Security Council and the General ssembly for a term of nine years. One third of them etire every year. Two sitting Judges cannot belong to ne country. The Judges elect their President for three ears by majority vote.

Sessions of the Court generally continue the year ound. The Court can shift its sessions to places other han its headquarters, if it so desires. Nine Judges onstitute the quorum of the Court. Decisions are ken by majority vote of the Judges present. If the umber of Judges in favour of or against the case is the me, the presiding Judge has the casting vote.

Every member state can present its case before the ourt. In case a Judge belongs to the same country hich is a party to the case, the other party can demand is replacement by another Judge. The functions of he Court are :

(*i*) The Court can hear all cases presented before it by member states. The cases should not, however, go against the Charter of the United Nations or current agreements.

(*ii*) The Jurisdiction of the Court extends to all disputes which contravene international laws.

(*iii*) The General Assembly and the Security Council can seek the advice of the Court in legal matters.

(*iv*) Member states must abide by its decisions. The Court, however, cannot summon a state without its consent.

6. *The Secretariat* : This important organ of the nited Nations is headed by the Secretary General. he Secretary General is appointed by the General ssembly on the recommendations of the Security ouncil for a term of five years. The Secretary General responsible for the working of the Secretariat. He is

also responsible for the recruitment, promotion and dismissal of the staff of the Secretariat.

The Secretariat consists of approximately four thousand three hundred persons. These persons are recruited from member states. They belong to the International Service. The Secretary General and other employees of the Secretariat are responsible for their actions to the United Nations alone. Some of the important functions of the Secretariat are :

(*i*) To arrange meetings of the General Assembly, the Security Council and the Trusteeship Council.

(*ii*) To maintain a record of all the activities of the United Nations. It also prepares copies of important discussions and decisions in five languages—English, Russian, Chinese, French and Spanish, It also keeps the world informed of the activities of the UN.

(*iii*) To register agreements arrived at between member states.

(*iv*) To prepare agendas of meetings and maintain their record.

The Secretary General warns the Security Council of the danger of use of force in any part of the world. In this way, he has the power to convene special sessions of the Security Council.

EXERCISES

1. What is the manifesto of the U.N.
2. Briefly describe the purposes, the U.N. stands for.
3. Give an account of the six basic organs of the U.N.

Chapter XI

Kashmir Problem

The State of Jammu and Kashmir is situated in the north of Pakistan and Bharat. Afghanistan, USSR and China are situated in the north of the State. The State has a 1500 kilometre long boundary with Pakistan. Three big rivers of Pakistan i e. the Indus, the Jehlum and the Chenab have their sources in Kashmir. The State naturally occupies a very strategic position in the region.

According to the census of 1941, 80% of the population of the State of Jammu and Kashmir was Muslim. In the valley of Kashmir itself, this percentage was about 93. Naturally, Pakistan cannot allow Bharat to occupy the State forcibly and keep the Muslims living there under its domination permanently.

Partition of the Sub-Continent and the Right of Self-Determination.

With the partition of the Indo-Pakistan sub-continent, British sovereignty over Princely States of India also came to an end. However, Lord Mountbatten, the then Viceroy of India advised the rulers of these States to decide the matter of accession of their states to either Bharat or Pakistan keeping in mind :

(*i*) the geographical contiguity of the State ;

(*ii*) wishes of the people of the State ; and

(*iii*) the majority of the population of the State.

Pakistan and Kashmir are linked to each other, economically, geographically, culturally, religiously and linguistically. The people of the State, thereforewanted the State to accede to Pakistan. But, the Dogra Raja of the State of Jammu and Kashmir decided in favour of the State's accession to Bharat. He did this because his co-religionists in Bharat wanted him to do so. He did not ascertain the wishes of the people of the State.

In fact, Bharat's policy of accession of Princely States was based not on principles but on self-interest. Bharat justified Kashmir's accession to Bharat on the plea that the Maharaja of the State made a request to this effect. On the other hand, it justified the accession of Hyderabad and Junagarh to Bharat on the plea that the majority of the population of these States was Hindu by religion. It is evident that this policy is against all principles of logic and international morals.

Links of the State with Pakistan :

Historical : At the time of the partition of the sub-continent, Lord Mountbatten advised the rulers of the Princely States to decide the matter of the accession of their States either to Bharat or Pakistan keeping in mind the wishes of the people of the States. This declaration was made in July, 1947. The Muslims of Kashmir, who were in majority, expressed their desire to join Pakistan. In the meantime, Radcliffe who was Chairman of the Boundary Commission awarded the Muslim-majority district of Gurdaspur to Bharat. This Award provided the States geographical contiguity with Bharat.

Maharaja Hari Singh of Kashmir was aware that the Muslims of the State would not like the State to join Bharat. He, therefore, signed an agreement of status-quo with Pakistan in August, 1947. After that, however, he conspired with the Hindus and signed the State's accession to Bharat. On learning this conspiracy, Muslims started their struggle for independence from the Dogra Raj. The Maharaja requested Bharat for military assistance. Armed Forces of Bharat entered Kashmir and started killing the Muslims and looting their property. The Muslims had to go through untold sufferings at the hands of the Hindus. The Muslims, who escaped killing, started migrating to Pakistan.

Bharat wanted to establish its military superiority and to occupy the State. It was the moral and religious duty of the Muslims of Pakistan to help their brothers in Kashmir. Mujahideen from the tribal areas and the Punjab entered Kashmir and defeated the dogra and Bharati Forces on many fronts. The Mujahideen were thus able to liberate a large part of the State. This part is now called Azad Jammu and Kashmir. Bharat realized that it would be very difficult for it to keep the State under its occupation. So, it approached the United Nations to help.

Before discussing the UN role in Kashmir, we must find out the reasons for which Pakistan claims the right over Kashmir :

(*i*) Kashmir is linked with the outside world through Sialkot-Jammu Road, Gujrat-Bhimbhar Road ; Jhelum-Mir pur Road and Abbotabad—Mansehra—Muzaffarabad Road. As against this, Kashmir is linked with India through Gurdaspur.

(*ii*) The Indus, the Jhelum and the Chenab have their sources in Kashmir. This has a direct bearing on the economy of Pakistan.

(*iii*) Large majority of the people of Kashmir is closely linked with the people of Pakistan racially, culturally and religiously.

Economic : One of the main sources of trade of the people of Kashmir is timber. It is obtained from the forests in the State. It flows down the rivers and streams into Pakistan. This timber is sold in the markets of Sialkot, Wazirabad and Jehlum. Hides and skins and wool from Kashmir are also sold in the Punjab and Sind. Thus, the economic life of the people of Kashmir has always been linked with that of the people of Pakistan.

Plateau of Sirinagar is the natural plain of the Indus.

Religious: Majority of the people of Kashmir are Muslims by religion. Arabs came to northern parts of the Indo-Pakistan sub-continent in the 10th century and started preaching Islam. People of Kashmir accepted Islam much earlier than those of other parts of the sub-continent. People of Pakistan have inseparable religious and cultural links with the people of Kashmir.

United Nations and the Problem of Kashmir: According to the Charter of the United Nations, the problem of Kashmir was placed before the Security Council. Pakistan demanded an impartial plebiscite in the State under the supervision of the United Nations. Resolutions passed by the Security Council on August 13, 1948 and January 5, 1949 demanded:

(*i*) a ceasefire in the State;

(*ii*) return of the armed forces of Pakistan and Bharat; and

(*iii*) free and impartial plebiscite under the supervision of the U.N.

An Administrator was appointed by the UN in March, 1949 to hold a plebiscite in the State. He tried his best to find a solution of the problem but failed to do so on account of Bharat's un-co-operative attitude. UN made more attempts to solve the issue, but Bharat always refused to co-operate.

Sir Dickson was sent to the sub-continent by the UN in May, 1950 to try to solve the issue. He proposed establishment of the single government for the whole of the State for the period of the plebiscite. Bharat rejected the proposal. Sir, Dickson reported back to the Security Council in June, 1950 that Pakistan was prepared to respect all the resolutions of the Security Council, which included the return of armed forces, but Bharat refused to co-operate.

Dr. Graham was then appointed arbitrator by the UN. But Bharat refused to co-operate with him on the plea that it was an internal problem of Bharat. Dr. Graham visited Pakistan and Bharat a number of times but Bharat did not co-operate.

Britain and the United States of America moved a a resolution in the Security Council in February, 1952 to the effect that problem of Kashmir should be referred to the International Court of Justice. Pakistan expressed its willingness to do so while Bharat rejected the proposal.

Prime Ministers of Pakistan and Bharat met in 1953 and discussed the problem of Kashmir. A joint communique was issued after the meeting. The two Prime Ministers agreed to solve the problem according to the will of the people of the State. They also agreed to hold a plebiscite to ascertain the will of the people of the State. In this connection, they called for the appointment of an administrator.

Constitution of the State of Kashmir was presented before the Constituent Assembly of the State in October, 1956. It claimed that the State of Jammu and Kashmir was a part of Bharat. It proves that the Prime Minister of Bharat was not sincere in the commitments he had made in 1953 in the joint communique. Bharat refused to hold a plebiscite in Kashmir on the plea that Pakistan had entered into a military alliance with America under which it was going to receive military aid. In fact, Pakistan had not received any military aid by that time.

Prime Minister of Bharat had taken this plea only to push the problem in cold storage.

Britain, USA and Cuba moved a resolution in the Security Council in 1957. It asked for the deployment of UN forces in Kashmir. This resolution was vetoed by USSR. America, Britain and Australia, then, moved another resolution which deputed Mr. Jarring to help the parties in the solution of the problem. Bharat refused to co-operate with him as well. Mr. Jarring visited the sub-continent in 1958 for the second time. But, Bharat did not accept any of the proposals put forward by him. He also reported his failure to the Security Council.

In the meantime, Bharat started the settlement of Hindus in the State. It also offered loans to the Hindus for this purpose. Pakistan brought this matter to the notice of the Security Council immediately.

In 1959, President Ayub of Pakistan offered joint defence proposals for Pakistan and Bharat on the condition that Kashmir problem should be solved. Indian leaders rejected this offer on the plea that Pakistan was receiving military assistance from USA. The problem of Kashmir, therefore, remained unsolved.

In the meantime, Bharat was building up its military strength with the help of supplies both from USA and USSR. Bharat was defeated in its war with China in 1962. It was then revealed that Bharat had received military aid from USA under (secret) defence pact on the pretext of defence against China. All this was happening under the cover of India's neutrality and non-alignment.

Bharat finally annexed the State of Jammu and Kashmir ignoring all international commitments. Pakistan invited the attention of the Security Council to this act. But, the Security Council again proved helpless. At last, the Muslim population of Kashmir again rose in revolt against the high-handedness of Bharat. A Revolutionary Council was set up. This time the Mujahideen adopted guerilla tactics of war-fare. This created confusion in the Bharati ranks. Bharat retaliated and captured Haji Pir Pass, Kargil and tetwal posts in the north. In reply, Azad Kashmir forces liberated Chamb and Jaurian with the help of Pakistan Army within six days.

After suffering the defeats in Kashmir, Bharat attacked Pakistan and crossed the international border on September 6, 1965. But, the armed forces of Pakistan fought bravely to defend their dear homeland. At last, the Security Council passed a resolution asking the two countries to cease-fire. This resolution was accepted by both the parties.

President of Pakistan addressed the General Assembly of the United Nations in December, 1965. In his speech, he offered to sign a no-war pact with Bharat if the problem of Kashmir was solved justly. The world press gave it wide publicity and welcomed it. But, Bharat did not react.

The relations between the two countries were bound to be strained after the 1971 war. Bharat had committed aggression against Pakistan and dismembered it. However, the Simla Agreement paved the way for bringing the two countries close to each other. Talks between the two countries at the Secretaries' and the Ministers' level are continuing. The two countries are discussing Pakistan's offer of a no-war pact and Bharat's offer of a treaty of friendship and co-operation. It is hoped that they will be able to find a solution to the problem of Kashmir also.

EXERCISES

1. How do you account for the links between Pakistan and the State of Jammu and Kashmir ?
2. Give an estimate of the efforts made by the UN in solving the Kashmir problem.

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قومی ترانہ

پاک سرزمین شاد باد   کشورِ حسین شاد باد
تو نشانِ عزمِ عالیشان   ارضِ پاکستان
مرکزِ یقین شاد باد
پاک سرزمین کا نظام   قوتِ اخوتِ عوام
قوم، ملک، سلطنت   پائندہ تابندہ باد
شاد باد منزلِ مراد
پرچمِ ستارہ و ہلال   رہبرِ ترقی و کمال
ترجمانِ ماضی، شانِ حال   جانِ استقبال
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